IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

CHURCH OF SCIENTOLOGY, INTERNATIONAL,)
Plaintiff/Respondent,)
)
vs.)
)
GERALD ARMSTRONG,) NO. A075027
Defendant/Appellant.)
)

CLERK'S TRANSCRIPT ON APPEAL

FROM A JUDGMENT MADE AND ENTERED

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

VOLUME 5

For the Plaintiff/Respondent:

Andrew Wilson, Esq.
WILSON, RYAN & CAMPILONGO
115 Sansome Street, 4th Floor
San Francisco, CA 94104

For the Defendant/Appellant (In Pro Per):

Gerald Armstrong
715 Sir Francis Drake Blvd.
San Anselmo, CA 94960

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

MARIN COUNTY COURTS

DEPARTMENT 1

CHURCH OF SCIENTOLOGY, INTERNATIONAL, Plaintiff, vs. GERALD ARMSTRONG, Defendant.	No. 157680

GARY W. THOMAS	JUDGE
JOHN P. MONTGOMERY	COURT EXECUTIVE OFFICER
ELAINE PASSARIS	REPORTER

For the Plaintiff:

Andrew Wilson, Esq.
WILSON, RYAN & CAMPILONGO
115 Sansome Street, 4th Floor
San Francisco, CA 94104

For the Defendant (In Pro Per):

Gerald Armstrong
715 Sir Francis Drake Blvd.
San Anselmo, CA 94960

CHRONOLOGICAL INDEX NO. 157680, VOL. 5 LA NO. BC052395 PAGE NO.

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BBB

1163

Andrew H. Wilson
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Laurie J. Bartilson
BOWLES & MOXON
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Hollywood, CA 90028
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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

C

FILED
LOS ANGELES SUPERIOR COURT
MAR 04 1993
JAMES H. DEMPSEY, CLERK
BY INNA R. MATTHEWS, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

FILED
NOV 16 1994
OWARD HANSON
RIN COUNTY CLERK

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants. AND RELATED CROSS-CLAIM	CASE NO. BC 052395 PLAINTIFF'S OBJECTION TO "DEFENDANT ARMSTRONG'S MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE RE ACTIONS OF SCIENTOLOGY" AND "DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT;" DECLARATION OF LAURIE J. BARTILSON IN SUPPORT THEREOF DATE: March 5, 1993 TIME: 8:30 a.m. DEPT: 86 DISC CUT-OFF: April 2, 1993 MTN CUT-OFF: April 19, 1993 TRIAL DATE: May 3, 1993

Plaintiff Church of Scientology International hereby objects to "Defendant Armstrong's Memorandum in Opposition to Motion in Limine re Actions of Scientology," and "Defendant Armstrong's Memorandum in Sur-reply On Order to Show Cause re Contempt," and requests that they be stricken and not considered by the Court, for the following reasons:

1. The Order to Show Cause re: Contempt was issued on December 31, 1992;

2. Both the Order to Show Cause Re: Contempt and the Motion in Limine were set for hearing, by stipulation of the parties, on March 2, 1993;

3. Memoranda of points and authorities opposing these motions were due to be filed and served by Armstrong on February 23, 1993;

4. On February 25, 1993, two days after the date on which any oppositions were due to be filed and served, Armstrong moved this Court, by ex parte application, for permission to file a Memorandum in opposition to the Order to Show Cause 44 pages in length. His application was denied, and on that date he filed a 15-page memorandum;

5. On March 1, 1993, plaintiff, having received no opposition to the motion in limine, and both the opposition and reply date having passed, filed a notice of non-opposition to the motion in limine;

6. On March 1, 1993, the Court, on its own motion, continued the hearing on the Order to Show Cause and the motion in limine to March 5, 1993;

7. On March 3, 1993, plaintiff received, by mail service, a copy of "Defendant Armstrong's Memorandum in Opposition to Motion in Limine re Actions of Scientology." The proof of service of this document states that it was mailed to plaintiff's counsel on March 1, 1993 (Ex. A to Bartilson Dec.);

8. Any opposition to the motion in limine was due to be filed and served, pursuant to CCP §1005 (13) (b), on or before February 23, 1993. Even after the hearing date on the motion was continued, the opposition was due on or before February 25, 1993. Armstrong made no request to the Court for permission to late-file and serve his opposition, nor did he serve it on plaintiff in time for plaintiff to prepare and file a reply to it before the hearing on March 5, 1993;

9. On March 3, 1993, at 10:26 p.m., long after the close of business, plaintiff's counsel's office received by telefax a copy of a 15-page document titled

"Defendant Armstrong's Memorandum in Sur-reply on Order to Show Cause re Contempt." The proof of service on this document states that service was accomplished by telefax and mail on March 3, 1993; the telefax slip notes the time it was faxed (Ex. B, C to Bartilson Dec.);

10. The CCP makes no provision for the filing of a "sur-reply," nor do the Local Rules of the Los Angeles Superior Court. Armstrong made no attempt to seek permission of the Court to file this additional memorandum, nor did he file and serve it in time for plaintiff to prepare any meaningful response to it. Indeed, the filing may most properly be interpreted as a deliberate attempt to circumvent the Court's ruling of February 25 requiring Armstrong to complete his briefing within 15 pages;

11. The briefing provided by Armstrong in his memoranda is duplicative, and an attempt to re-litigate issues already determined by Judge Sohigian by the issuance of the Order which Armstrong has violated. Both the United States Supreme Court and numerous California courts have held that a defendant may not defend a contempt charge for violation of the order of a Court having jurisdiction over the person and subject matter of the action by arguing that the underlying order should not have issued in the first place. E.g., Walker v. City of Birmingham (1967) 388 U.S. 308; In re Jackson (1985) 170 Cal.App.3d 505, 775, 778, 216 Cal.Rptr. 539, 541.

DATED: March 4, 1993

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By: Laurie J. Bartilson

Attorneys for Plaintiff
and Cross-Defendant
CHURCH OF SCIENTOLOGY
INTERNATIONAL

\ARMSTRON\memo.obj

I, LAURIE J. BARTILSON, hereby declare:

1. I am a member of the law firm of Bowles & Moxon and am an attorney admitted to practice in the State of California. My firm represents plaintiff Church of Scientology International ("Church") in the instant case. I have personal knowledge of the matters specified in this declaration and, if called upon to testify on such matters, would and could do so competently.

2. On December 31, 1992, I appeared before the Honorable Ronald N. Sohigian seeking an Order to Show Cause re: Contempt against defendant herein, Gerald Armstrong. My moving papers were served on Armstrong's counsel on December 30, 1992. Judge Sohigian issued the Order to Show Cause, setting the hearing for February 16, 1993. I served the Order on Armstrong's counsel by mail and telefax.

3. On February 1, 1993, I filed and hand-served a Motion in Limine concerning the contempt hearing, which was also scheduled for February 16, 1993.

4. At the request of Armstrong's counsel, I agreed to continue the hearings on both the Order to Show Cause Re: Contempt and the Motion in Limine until March 2, 1993. This stipulation was approved by the Court.

5. Armstrong's Memoranda of points and authorities opposing these motions were due to be filed and served by Armstrong on February 23, 1993.

6. On February 25, 1993, two days after the date on which any oppositions were due to be filed and served and while I was out of town, Armstrong moved this Court, by ex parte application, for permission to file a Memorandum in opposition to the Order to Show Cause 44 pages in length. His application was denied, and on that date he filed a 15-page memorandum.

7. On March 1, 1993, having received no opposition to the motion in limine, and both the opposition and reply date having passed, I filed a notice of

non-opposition to the motion in limine.

8. On March 1, 1993, the Court, on its own motion, continued the hearing on the Order to Show Cause and the motion in limine to March 5, 1993.

9. On March 3, 1993, I received, by mail service, a copy of "Defendant Armstrong's Memorandum in Opposition to Motion in Limine re Actions of Scientology." The proof of service of this document states that it was mailed to plaintiff's counsel on March 1, 1993. A true and correct copy of the proof of service is attached hereto as Ex. A.

10. Any opposition to the motion in limine was due to be filed and served on or before February 23, 1993. Even after the hearing date on the motion was continued, the opposition was due on or before February 25, 1993. Armstrong made no request to the Court for permission to late-file and serve his opposition, nor did he serve it on plaintiff in time for plaintiff to prepare and file a reply to it before the hearing on March 5, 1993.

11. On March 3, 1993, at 10:26 p.m., long after the close of business, my office received by telefax a copy of a 15-page document titled "Defendant Armstrong's Memorandum in Sur-reply on Order to Show Cause re Contempt." I was not present in my office at that time of night, but the time is clearly recorded on the telefax transmittal, a true and correct copy of which is attached hereto as Exhibit B. The proof of service on this document states that service was accomplished by telefax and mail on March 3, 1993. A true and correct copy of this proof of service is attached hereto as Exhibit C. it was faxed (Ex. __, __ to

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 4th day of March, 1993, at Los Angeles, California.

Laurie J. Bartilson

Exhibit A

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DEFENDANT ARMSTRONG'S MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

[x]	(By Mail)	I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.
[ ]	(Personal)	I caused said papers to be personally service on the office of opposing counsel.
[x]	(State)	I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 1, 1993

Exhibit B

1171

HUB LAW OFFICES
711 SIR FRANCIS DRAKE BOULEVARD
SAN ANSELMO, CALIFORNIA 94960-1949
(415) 258-0360

RD GREENE
LAWYER

LICENSE No. 107601
FACSIMILE (415) 456-5318

IMPORTANT: This telecopy is intended only for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable law. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this transmission or its contents is strictly prohibited. If you have received this transmission in error, please notify us by telephone and return the original transmission to the office at the above address.

DATE:	March 3, 1993
TO:	LAURIE J. BARTILSON, ESQUIRE
TELEPHONE:	(213)661-4030
FAX TELEPHONE:	(213)662-6419
FROM:	FORD GREENE
TELEPHONE:	(415) 258-0360
FAX TELEPHONE:	(415) 456-5318

DOCUMENT INFORMATION

This Fax Communication consists of this cover sheet plus 20 pages comprising the accompanying document.

Sur-Reply on Order to Show Cause Re Contempt

INSTRUCTIONS

_____ CONFIRM RECEIPT OF THIS FAX BY TELEPHONE

_____ HARD COPY TO FOLLOW BY MAIL

_____ IF ALL PAGES ARE NOT RECEIVED OR ARE NOT LEGIBLE, PLEASE TELEPHONE AND NOTIFY SENDER IMMEDIATELY.

_____ OTHER:

Exhibit C

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ. By Fax
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

[x] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[ ] (Personal) I caused said papers to be personally service on the office of opposing counsel.

[x] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 3, 1993

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 4, 1993, I served the foregoing document described as PLAINTIFF'S OBJECTION TO "DEFENDANT ARMSTRONG'S MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE RE ACTIONS OF SCIENTOLOGY" AND "DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT;" DECLARATION OF LAURIE J. BARTILSON IN SUPPORT THEREOF on interested parties in this action by

[ ] placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Paul Morantz **By Fax and U.S. Mail**
P.O. Box 511
Pacific Palisades, CA 90272

[X] BY MAIL
[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.
[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondece for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or

postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 4, 1993, at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _______ __, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

PAUl BRAdFoRd
Type or Print Name

Paul Bradford
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On MARCH 4, 1993, I served the foregoing document described as PLAINTIFF'S OBJECTION TO "DEFENDANT ARMSTRONG'S MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE RE ACTIONS OF SCIENTOLOGY" AND "DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT;" DECLARATION OF LAURIE J. BARTILSON IN SUPPORT THEREOF on interested parties in this action by

[ ] placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Ford Greene **By U.S. Mail & Fax**
HUB Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 94960-1949

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondece for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 4, 1993, at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelope by hand to the addressee.

Executed on _________ __, 1993, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

PAUL BRADFORD
Type or Print Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO
235 Montgomery Street
Suite 450
San Francisco, California 94104
(415) 391-3900

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard, Suite 2000
Hollywood, CA 90028
(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

FILED
MAR 04 199
AMES H. DEMPSEY, C

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,	CASE NO. BC 052395
Plaintiff,	DECLARATIONS OF TIMOTHY BOWLES, KAREN HOLLANDER, ROBERT WIENER AND GARRY L. SCARFF IN SUPPORT OF PLAINTIFF'S OBJECTION TO DECLARATION OF GARRY L. SCARFF
vs.	
GERALD ARMSTRONG; DOES 1 through 25, inclusive,	DATE: March 5, 1993 TIME: 8:30 a.m. DEPT: 86
Defendants.	DISC CUT-OFF: April 2, 1993 MTN CUT-OFF: April 19, 1993 TRIAL DATE: May 3, 1993

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY DEPUTY

DECLARATION OF TIMOTHY BOWLES

I, TIMOTHY BOWLES, hereby declare:

1. I am over the age of eighteen (18) years of age and have personal knowledge of the matters set forth herein. If called upon to do so, I could and would competently testify thereto.

2. I am an attorney admitted to the California Bar. I am a senior partner in the law firm, Bowles & Moxon, counsel for plaintiff herein.

4. I have read the February 11, 1993 Declaration of Garry L. Scarff filed in support of defendant Gerald Armstrong's Opposition to Order to Show Cause Re Contempt.

5. In this declaration Mr. Scarff stated under oath that on December 20, 1991, he attended a meeting at the offices of Bowles & Moxon, attended by myself, Kendrick Moxon, Randy Spencer and "Eric Moran." Scarff identified all of these individuals as attorneys of Bowles & Moxon.

6. No such meeting as described by Mr. Scarff has ever occurred. Moreover, Bowles & Moxon does not employ anyone named "Eric Moran," nor have I ever met an attorney by that name.

7. From Monday, December 9, 1991 through Friday, December 20, 1991, I was in the State of Oklahoma on matters for another client of Bowles & Moxon. I did not return to Los Angeles until the early morning hours of Saturday, December 21, 1991. On my return to Los Angeles and through December 26, 1991, I devoted my time to my family, returning to the office on Friday December 27, 1991.

8. Garry Scarff has never been hired nor employed by Bowles & Moxon. I first met Garry Scarff on December 17, 1992, following

a hearing at the United States Courthouse in Portland, Oregon. Prior to this date I had never seen Garry Scarff.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1st day of March, 1993.

Timothy Bowles

H:\ARMSTRON\bowles.dec

DECLARATION OF KAREN HOLLANDER

I, Karen Hollander, declare as follows:

1. I am over the age of 18 years and have personal knowledge of the matters set forth herein. If called upon to do so, I could and would competently testify thereto.

2. I was a parishioner and staff member of the Church of Scientology in Portland, Oregon from 1978 to 1989. In 1987 I was the President of the Church of Scientology, Celebrity Centre Portland, located at 709 Southwest Salmon Street, in Portland, Oregon. Part of my duties as President of the Church involved handling public relations matters.

3. I knew Garry L. Scarff as a member of the Positive Action Center of Portland, Oregon, an affiliate of the Cult Awareness Network. The Cult Awareness Network is known to me as an anti-religious group which specializes in attacking minority religions and promotes the deprogramming of members of those religions. Mr. Scarff was known to me to be closely associated with Anne and Adrian Greek, the directors of the Positive Action Center, and past officers of the national office of the Cult Awareness Network.

4. In late 1987, I was in communication with the head of production of a local Portland television show, "AM Northwest," regarding an interview "AM Northwest" was considering of a person who was extremely biased against the Scientology religion. I presented information regarding the topics intended for the interview and was later informed that "AM Northwest" had declined to conduct or air the interview.

5. On December 4, 1987, I received a letter from Garry

Scarff, attached to this declaration as Exhibit A. In this letter, Mr. Scarff referred to himself as "a former exit counsellor," and "volunteer member of the Cult Awareness Network." Mr. Scarff further stated that he was "not the least bit alarmed by legal action against me by the Church [of Scientology]. In fact, I would welcome it as an opportunity and challenge to further educate the public of the destructive cult of which you are a member."

6. Enclosed with the December 4, 1987 letter was a letter Mr. Scarff had written to the editor of a local Portland newspaper regarding the prior cancellation of the interview on "AM Northwest," attached to this declaration as Exhibit B. In this letter, Mr. Scarff wrote protesting the television station's decision not to conduct the interview. Mr. Scarff described the Church of Scientology as "... one of society's most devious and destructive cults..." and described himself as a "former cult exit-counselor" and "cult education advocate."

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this ___ day of March, 1993 at Los Angeles, California.

Karen Hollander

Karen Hollander

C RRY L SCARFF
POSITIVE ACTION CENTER
P.O. BOX 20997
PORTLAND, ORE. 97220

MRS. KAREN HOLLANDER
CHURCH OF SCIENTOLOGY
709 S.W. SALMON STREET
PORTLAND, ORE. 97205

DECEMBER 4, 1987

DEAR MRS. HOLLANDER:

THANK YOU FOR YOUR LETTER DATED NOVEMBER 30. I AM HAPPY THAT YOU SENT ME THE LETTER WHEN YOU DID, AS IT IS A POSITIVE RECOGNITION THAT MY CULT EDUCATION EFFORTS THROUGHOUT THE COUNTRY HAVE NOT BEEN IN VAIN. I HAVE, LIKEWISE, TURNED YOUR LETTER OVER TO APPROPRIATE INDIVIDUALS. AS I HAVE COOPERATED IN A NUMBER OF LAWSUITS/TRIALS AGAINST DESTRUCTIVE CULT ORGANIZATIONS IN THE PAST, INCLUDING THE CHURCH OF SCIENTOLOGY, I AM NOT THE LEAST BIT ALARMED BY LEGAL ACTION AGAINST ME BY THE CHURCH. IN FACT, I WOULD WELCOME IT AS AN OPPORTUNITY AND CHALLENGE TO FURTHER EDUCATE THE PUBLIC OF THE DESTRUCTIVE CULT OF WHICH YOU ARE A MEMBER.

I ALSO WISH TO POINT OUT A DISCREPANCY IN YOUR LETTER. AS A FORMER EXIT COUNSELOR, OR "DEPROGRAMMER" AS YOU CALL ME, I AM ONLY A VOLUNTEER MEMBER OF THE NATIONAL CULT AWARENESS NETWORK AND ITS OREGON AFFILIATE, THE POSITIVE ACTION CENTER. THE POSITIVE ACTION CENTER DOES NOT ORCHESTRATE MY ACTIONS, AS HAS BEEN PROVEN THE CASE WITH THE CHURCH OF SCIENTOLOGY AND ITS SUBORDINATES. THE ONLY TTACK AGAINST THE CHURCH OF SCIENTOLOGY, BY THE POSITIVE ACTION ENTER, HAS BEEN BASED ON FACTS AND REPRESENTATIONS BY FORMER MEMBERS OF YOUR CHURCH THROUGH INTERVIEWS, TRIAL TRANSCRIPTS, ETC.

CORDIALLY,

GARRY L SCARFF

CC: POSITIVE ACTION CENTER
CAN NATIONAL OFFICE, CHICAGO
GARRY MCMURRAY, ATTORNEY
FORD GREENE, ATTORNEY
MICHEAL FLYNN, ATTORNEY

DECEM[redacted]

1184

GARRY L SCARFF
2117 NE MULTNOMAH STREET
PORTLAND, OREGON 972

LETTERS TO THE EDITOR
WILLAMETTE WEEK
2 NW 2ND AVENUE
PORTLAND, OREGON 97209

DEAR EDITOR:

I AM ALARMED AND DISGUSTED WITH KATU'S MISGUIDED REACTION TO SCIENTOLOGY PRESSURE, WHICH LED THEM TO CANCEL THE APPEARANCE OF EX-SCIENTOLOGIST BRENT CORYDON ON "AM NORTHWEST". THE CHURCH OF SCIENTOLOGY, ONE OF SOCIETY'S MOST DEVIOUS AND DESTRUCTIVE CULTS TODAY IS WELL-KNOWN, AS IT IS WELL-DOCUMENTED, FOR ITS FLAGRANT DECEPTION, FRAUD AND CRIMINAL BEHAVIOR.

ONE ONLY HAS TO REMEMBER THE NUMBER OF SCIENTOLOGY LEADERS THAT HAVE SERVED TIME IN PRISON FOR CRIMINAL ACTS ON BEHALF OF THE CHURCH, WHICH INCLUDED MARY SUE HUBBARD, THE WIFE OF SCIENTOLOGY'S BENEVOLENT CULT GURU AND SCIENCE FICTION WRITER, L. RON HUBBARD.

WHY WOULD THE CHURCH OF SCIENTOLOGY BE SO FERVENTLY COMPELLED TO PROTEST THE APPEARANCE OF MR. CORYDON UNLESS THEY HAD SOMETHING TO HIDE? IT IS WELL-KNOWN WHAT INTIMIDATION AND DIRTY TRICKS FOLLOW THOSE THAT SPEAK OUT AGAINST SCIENTOLOGY OR EXPOSE FACTS THAT BRING THE CHURCH UNDER PUBLIC SCRUTINY.

WE MAY REMINISCE BACK TO MAY 1985, AFTER THE $39 MILLION JUDGEMENT AGAINST SCIENTOLOGY WAS AWARDED, WHEN THE WILLAMETTE WEEK FOLLOWED UP WITH AN INTENSIVE EXPOSEE ON THE CHURCH OF SCIENTOLOGY. ALAS, THE GENERAL PUBLIC DID NOT HAVE THE OPPORTUNITY TO READ THE STORY ON DISTRIBUTION DAY THANKS TO THE CONNIVING EFFORTS OF SCIENTOLOGISTS TO STEAL THOUSANDS OF YOUR NEWSPAPERS FROM THIER STANDS AND FROM STORES. EXPECTEDLY, SCIENTOLOGY LEADERS DENIED ANY KNOWLEDGE OF THE ACTIVITY.

MUCH OF THE ARTICLE SPEAKS OF CHURCH TRUSTEE, KAREN HOLLANDER, WHICH CRUSADED THE FIGHT AGAINST CORYDON'S APPEARANCE. IT IS EVIDENT THAT KATE MCKERN, PRODUCER OF "AM NORTHWEST" WAS IMPRESSED ENOUGH BY MS. HOLLANDER TO WHIMPER AWAY FROM THE CONFLICT WITH HER TAIL BETWEEN HER LEGS, RATHER THAN CONFRONT MS. HOLLANDER ON HER SO-CALLED "DATA". MS. MCKERN SHOULD HAVE ALSO QUESTIONED THE CREDIBILITY OF MS. HOLLANDER, OF HOLLANDER ASSOCIATES, A "MANAGEMENT CONSULTING" FIRM IN PORTLAND, WHICH IS LITTLE MORE THAN A FRONT GROUP AND AND RECRUITING ARM OF THE SCIENTOLOGY CULT.

MS. MCKERN BASED HER CANCELLATION DECISION ON A THREATENED PROTEST BY SCIENTOLOGY: PROTESTS, WHICH ARE POPULAR WITH SCIENTOLOGISTS BUT MORE OFTEN DISCREDIT THE CHURCH THAN ACT AS A POSITIVE STATEMENT. I CAN ONLY ASSUME THAT AS LONG AS MS. MCKERN REMAINS AT "AM NORTHWEST" AND KNUCKLES UNDER THE INTIMIDATION OF A DESTRUCTIVE CULT, AND ALLOWS IT TO GUIDE HER HAND IN DECISIONS ON "CONTROVERSIAL" GUESTS, THAT SCIENTOLOGY WILL ALWAYS HAVE A FRIEND AT KATU. IF THIS IS TO BE, AND INTIMIDATION WINS OVER FAIRNESS AND OBJECTIVITY, THEN KATU WILL BECOME, AND DESERVINGLY SO, AN UNDERDOG IN THE FIELD OF REPUTABLE BROADCAST JOURNALISM.

THANK YOU.

Garry L Scarff

GARRY L SCARFF,
FORMER CULT EXIT-COUNSELOR;
CULT EDUCATION ADVOCATE.
(503) 282-8316

DECLARATION OF ROBERT A. WIENER

I, ROBERT A. WIENER, declare as follows:

1. I am over the age of eighteen (18) years of age and have personal knowledge of the matters set forth herein, except for those matters which are stated upon information and belief and as to those matters, I believe them to be true. If called upon to do so, I could and would competently testify thereto.

2. I am an attorney at law licensed to practice in California and Oklahoma. I am an associate of Bowles & Moxon, counsel for plaintiff herein.

3. On October 26, 1992, I attended an aborted deposition of Garry L. Scarff conducted in Portland, Oregon. I appeared on behalf of several individuals who are plaintiffs in numerous cases in which Mr. Scarff's deposition was noticed by defendant Cult Awareness Network, Incorporated ("CAN").

4. The deposition was commenced at approximately 9:55 a.m. by CAN's attorney, Daniel A. Liepold, who conducted direct examination of Mr. Scarff. Attorney Liepold conducted his direct examination of the witness the entire morning and then continued in the afternoon after a one hour lunch break.

5. During the course of the deposition, Mr. Scarff was extremely abusive, shouting obscenities and engaging in other derogatory and gratuitous attacks against myself, my clients, the deposition, and two representatives of plaintiffs attending the deposition.

6. Referring to myself, Mr. Scarff made the following statements on the record:

"A. [THE WITNESS]: Yes. When I came in this morning, this is the chair I sat in. This is the chair I've been in since I came in this morning. I don't know where this man's head is. It must be up his ass ..."

(Ex. A, Deposition of Garry L. Scarff, October 26, 1992, pp. 17:23-18:1)

"THE WITNESS: Don't give me your shit, asshole."

(Ex. A, 29:8)

"THE WITNESS: You're such a fucking prick, you know that."

(Ex. A, 78:14-15)

"MR. WIENER: Objection. I don't think that interjecting things is appropriate.

"THE WITNESS: Well, it's appropriate whether you like it or not."

(Ex. A, 89:24-90:2)

"THE WITNESS: Every answer I've given today has been unresponsive to you. You're a sick puppy and as far as I'm concerned I've answered the question. That's all I have to say."

(Ex. A, 112:20-23)

"THE WITNESS: Counsel, I have three words for you, go to hell.

"MR. WIENER: Excuse me.

"THE WITNESS: Go to hell."

(Ex. A, 114:9-12)

"THE WITNESS: As I've stated before, counsel, I have answered that. If you're going to continue asking me questions, you're going to deal with a whole lot of silence because I'm not going to play games with you anymore. And you and your friend here can laugh all they want. But I'm not going to play games with Eugene and I'm not going to play games with you.

"MR. WIENER: Well, nobody's laughing.

"THE WITNESS: No, but you're a total joke as far as I'm concerned."

(Ex. A, 117:2-11)

7. A lunch break was taken between 12:00 p.m. and 1:00 p.m. Approximately five minutes into the afternoon session, without any prior warning, Attorney Liepold announced that he was unilaterally terminating the deposition because I was "intimidating" himself and the witness by making objections and moving to strike non-responsive testimony. Attorney Liepold then asked his witness, Mr. Scarff, if he were intimidated in the following exchange:

"MR. LIEPOLD: Are you intimidated?

"THE WITNESS: Yes, very much so."

(Ex. A, 107:10-11)

8. Following this exchange, Mr. Scarff thereafter refused to answer any questions posed by myself, as plaintiffs' counsel. The deposition was then terminated at approximately 1:30 p.m., prior to any cross-examination by any party except defendant CAN, the party which had sponsored Mr. Scarff's testimony.

9. Mr. Scarff is approximately 6'1" tall and weighs approximately 250 pounds. I am 5'6" tall and weigh 135 pounds.

10. Following the termination of the deposition, one of the plaintiffs that was denied cross-examination of Mr. Scarff filed a motion to compel the cross-examination of Mr. Scarff. The motion was filed in the United States District Court for the District of Oregon, the jurisdiction where Mr. Scarff resides. The Oregon Court denied the motion and instructed parties to seek relief from the Court where the action was pending.

11. A subsequent motion was filed in the Northern District of California by the CAN defendants seeking the appointment of a special master based on allegations that I was intimidating the

witness. The Court denied the motion, finding that I had not engaged in any improper conduct and the witness, Mr. Scarff, had engaged in misconduct. Since there was no basis for the unilateral termination and no misconduct by me, the Court ordered that Mr. Scarff's deposition proceed without a special master.

I declare under penalty of perjury under the laws of the State of California that foregoing is true and correct.

Executed this 4th day of March, 1993.

Robert A. Wiener

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JACK WISEL, Plaintiff, vs. CULT AWARENESS NETWORK, a California non-profit corporation; CULT AWARENESS NETWORK, NORTHERN CALIFORNIA CHAPTER, a California non-profit corporation; CYNTHIA KISSER, an individual; EUNICE KLIGER, an individual, Defendants.	Case No. C 92 0911 SAW

DEPOSITION OF GARRY L. SCARFF

Taken in behalf of the Defendants

* * *

October 26, 1992

1001 S.W. Fifth Avenue, Suite 1205

Portland, Oregon

COPY

TEACH REPORTING (503) 248-1003

APPEARANCES

APPEARING FOR THE PLAINTIFF:

Mr. Robert A. Wiener
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4545 Tyrone Avenue
Sherman Oaks, CA 91423
(818) 501-4307

Mr. James J. Jackson
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(213) 661-4030

APPEARING FOR THE DEFENDANTS:

Mr. Daniel A. Leipold
Hagenbaugh & Murphy
701 South Parker Street, Suite 8200
Orange, CA 92668
(714) 835-5406

Also present: Eugene M. Ingram, Vicki Scherer

Reported by: Pamela L. Spencer, CSR

EXAMINATION INDEX

EXAMINATION BY:	PAGE NO.
Mr. Leipold	3

EXHIBIT INDEX

EXHIBIT NO.	ITEM	PAGE NO.
(None)		

PORTLAND, OREGON; MONDAY, OCTOBER 26, 1992

10:00 a.m.

* * *

GARRY L. SCARFF,

was thereupon produced as a witness on behalf of the Defendants and, having been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. LEIPOLD:

Q Would you state your name for the record, please.

A My name is Garry Scarff.

Q Would you spell your last name, please.

A S-c-a-r-f-f.

Q Mr. Scarff, my name is -- excuse me, I'm talking.

MR. WIENER: Maybe just to save some time -- I could wait -- but I think he has a middle name or initial. I didn't hear it.

THE WITNESS: I have a middle name, Lynn, L-y-n-n.

MR. WIENER: Thank you.

BY MR. LEIPOLD: (Continuing)

Q Mr. Scarff, my name is Daniel Leipold. I represent the Cult Awareness Network in various cases that have been brought in California in Superior Court and in seated in here. Those documents were made available to me. I began reviewing those documents about two minutes before the witness walked in, and then when the witness asked for them, I gave them back.

MR. LEIPOLD: Okay. Have you finished your statement?

MR. WIENER: I have for now.

BY MR. LEIPOLD: (Continuing)

Q Mr. Scarff, you are currently seated next to the court reporter?

A That is correct.

Q And the documents that are in question, were those placed immediately in front of you?

A When I left the room --

MR. WIENER: Objection to form. I don't know what you mean "immediately." Do you mean immediately at the time that he's sitting here now or immediately before we began the deposition, because when I walked in they were in front of me. Now he's sitting in a different chair.

BY MR. LEIPOLD: (Continuing)

Q You can answer the question.

A Yes. When I came in this morning, this is the chair I sat in. This is the chair I've been in since I came in this morning. I don't know where this man's head is. It must be up his ass, because this thing was sitting right here in front of me and it has not moved from here until it was in your possession.

MR. JACKSON: I also observed that book sitting right here when I walked in.

THE WITNESS: Then it has feet.

BY MR. LEIPOLD: (Continuing)

Q Did you ever give Mr. Wiener permission to look through that book?

A I did not and I objected to him having it and he, of course, responded in a very arrogant manner.

Q Is there anything missing from that book?

A Yes, there is: Contacts that I had with my attorney in this matter, information relevant to the conversations I had with the attorney are gone, and there was about 6 pages here.

Q Does anybody in the room have knowledge as to where those pages went?

MR. JACKSON: I saw Mr. Wiener thumb through that book for about a minute before you came back into the room and he took nothing out of the book. I watched him thumbing through it the entire time.

MR. WIENER: Well, if the witness is claiming that there are some documents missing, then they were taken by you because you were the only person I observed witness a little bit, but I think we're going beyond a little bit. If the witness can't remember the facts for himself, then you're not going to get very far with this line of questioning.

THE WITNESS: I remember the facts precisely.

MR. WIENER: Excuse me. I don't need you to interrupt me.

THE WITNESS: Don't give me your shit, asshole.

MR. LEIPOLD: Hey, hey, calm down, calm down now.

MR. WIENER: Are there any other gratuitous comments you would like to make on the record?

THE WITNESS: Well, my behavior came from the Church of Scientology so you should be well aware of it.

MR. WIENER: Are you under the Scientologist's control today; is that what you're saying? You may answer the question if you'd like. I want you to get it all out. Keep on talking until you feel good.

MR. LEIPOLD: Do you have an objection on the record?

MR. WIENER: Well, I was interrupted and I just wanted to give him the opportunity to finish his statement.

MR. LEIPOLD: It's no problem.

MR. WIENER: Do you mind him finishing his

They're not going to be around any longer.

Q I would like to press this more because I'm sure I'll get objections if I don't. What I'm asking is -- let me ask another question. How do you know that Randall Spencer knew that the facts contained within your proposed complaint against the Positive Action Center, Cynthia Kisser, and the other various defendants named therein were not true?

A Randy --

MR. WIENER: Objection, now you're --

THE WITNESS: Randy Spencer --

MR. WIENER: Just a minute --

(Proceedings stopped by reporter.)

THE WITNESS: You're such a fucking prick, you know that.

MR. WIENER: Put that on the record.

THE WITNESS: Put that on the record, he's a fucking prick.

MR. LEIPOLD: Could you also put on the record that counsel was pointing at the witness and yelling at him, please?

MR. WIENER: And let's talk about who was yelling at who first. And you're darn right, I was not yelling at the witness, but I was certainly raising my voice because when I hear obscenities on the record

A He is the vice president of Friends of Freedom.

Q Do you know who funds Friends of Freedom?

A Yes.

Q Who?

A Church of Scientology in part funds the Friends of Freedom.

Q Do you know if that's in large part or small part?

MR. WIENER: Objection to form.

BY MR. LEIPOLD: (Continuing)

Q If you know?

A I don't know.

Q How do you know that the Church of Scientology funds Friends of Freedom?

A George Robertson has admitted that to me.

Q What has he said to you about it?

A He told me that whenever he is in need of doing something with regards to religious freedom that he counts on the support, on the financial support the Church of Scientology, and he usually gets this through his communications with Heber Jentzsch and David Butterworth.

Q Did you ever form an opinion -- you worked with --

A I would like to interject --

MR. WIENER: Objection. I don't think that interjecting things is appropriate.

MR. LEIPOLD: I'm unilaterally terminating the deposition only for the purpose of making a motion to get a federal magistrate involved, because I think this process is totally inappropriate the way you have conducted yourself and the presence of the individuals you have had in the room for intimidation factors. And the record will speak for itself in this matter. I feel you obviously feel confident with the record; I feel confident with the record.

MR. WIENER: And is the witness refusing to submit to further examination?

THE WITNESS: I will agree to further examination in front of a federal magistrate because it is clear to me you are not at all interested in the truth; you're here to play games.

MR. WIENER: I'm asking you, are you refusing --

THE WITNESS: I answered the question.

MR. WIENER: You were nonresponsive.

THE WITNESS: Every answer I've given today has been unresponsive to you. You're a sick puppy and as far as I'm concerned I've answered the question. That's all I have to say.

MR. WIENER: Are you refusing to submit to further examination today at this deposition?

THE WITNESS: I'm going on record at this point to say I need to take a break and I'm leaving the room at this point.

MR. WIENER: And are you going to be returning after the break --

THE WITNESS: Yes.

MR. WIENER: -- for further examination so that we can stay here and wait for you?

THE WITNESS: Counsel, I have three words for you, Go to hell.

MR. WIENER: Excuse me.

THE WITNESS: Go to hell.

MR. WIENER: Well, that really wasn't your response to my question.

THE WITNESS: I'll be back.

(The witness left the room.)

MR. LEIPOLD: Well, what do you think, about another five minutes of going round and round as to whether to terminate it?

MR. WIENER: Well, I want him to answer my question on the record, and whatever his answer is, obviously we'll stick with it. He's yet to answer that in a truly responsive straight term. I mean he's being a real smart ass about saying he won't submit to further intimidation. That's being argumentative. I asked him examination today? Is that what you want to do?

THE WITNESS: As I've stated before, counsel, I have answered that. If you're going to continue asking me questions, you're going to deal with a whole lot of silence because I'm not going to play games with you any more. And you and your friend there can laugh all they want. But I'm not going to play games with Eugene and I'm not going to play games with you.

MR. WIENER: Well, nobody's laughing.

THE WITNESS: No, but you're a total joke as far as I'm concerned.

MR. WIENER: Well, maybe you think it is a joke.

THE WITNESS: I'm not answering your questions any more.

MR. LEIPOLD: He's answered your question, he's not answering your questions any more. He just said it.

MR. WIENER: Well, the witness will not respond to my question as to whether he will submit to any of my cross-examination, so if you're not going to ask him more questions, then the deposition can't go forward.

MR. LEIPOLD: Counsel, he just said he's not going to answer any more of your questions. How much more direct of an answer do you want?

THE WITNESS: I don't think Spanish, I'm sorry,

DECLARATION OF GARRY LYNN SCARFF

I, Garry Lynn Scarff, do hereby state:

1. I was born on August 17, 1956 in Ft. Madison, Iowa. My father's name is Merritt L. Scarff. My mother's maiden name is Nadine Cox. Both my parents are still alive and live in Florida. I currently live in Portland, Oregon.

2. Sometime in 1974, I went to the Palladium Auditorium in Los Angeles, California and attended an evangelism service where Reverend Jim Jones was the featured speaker. I met and spoke with Jones at this event. I subsequently met with Jones two or three more times at his church on Alvarado Street in Los Angeles. This is the same Jim Jones that in 1978, died with over 900 of his followers in Jonestown, Guyana. I was never a member of any of Jones' Churches, including the People's Temple. I never travelled to Guyana at any time, nor participated in any People's Temple activities in San Francisco.

3. While a university student at Portland State University in 1979, I was approached by a female student who was seeking donations for a campus drug rehabilitation project. I gave her a personal check for ten dollars as a donation. When I received my cancelled check I noticed that it had been deposited to the account of the Unification Church at the Diplomat Bank of New York. This is the same Unification Church that is commonly known

as the Moonies. I felt that I had been duped into donating the ten dollars and became angry at the Unification Church for doing this.

4. Shortly thereafter, I read an article about a book written by Barbara Underwood. Barbara Underwood had been a member of the Unification Church who had been deprogrammed away from the Church by Gary Scharf, who is another CAN deprogrammer with a name similar to mine, whom she later married. I subsequently read Barbara Underwood's book and learned how the Positive Action Center (PAC) in Portland, Oregon was attempting to expose wrongdoings allegedly committed by the Unification Church. The Positive Action Center was headed by Anne and Adrian Greek, a married couple. Barbara Underwood's mother, Mary Betty Underwood, was also involved in the Positive Action Center.

5. I located the Greek's phone number, telephoned them and we subsequently met. I developed a close personal friendship with the Greeks particularly Anne Greek. This relationship lasted until about August 1988. During this ten year relationship, I frequently went to the Positive Action Center and visited with the Greeks. Anne Greek even referred to me as an "adopted" son.

6. At about this same time in 1979, I started a campus group called "Students for Personal Freedom and Choice" (SPFC).

I started this group primarily to attack another student organization called "Collegiate Association for the Research of Principle" (CARP). I had learned that CARP was closely associated with the Unification Church.

7. I subsequently invited the Greeks to speak at several SPFC meetings held on campus.

8. As my close relationship with the Greeks grew, they confided many personal things to me. They told me that PAC was part of a national organization called the Citizens Freedom Foundation, which later changed its name to the Cult Awareness Network (CAN). They told me that both PAC and CAN were tax exempt organizations who fought to destroy religious organizations who they felt used coercive mind control tactics upon their adherents.

9. The Greeks told me that they had gotten involved in this type of activity after their son and daughter, Phil and Sheryl, had joined the Unification Church. PAC was originally organized to deprogram people out of these type of religions. The Greeks told me that they had previously deprogrammed Phil Greek.

10. The Greeks then arranged for me to begin speaking at PAC and CAN events. The Greeks advised and encouraged me to embellish, and expand upon my previous limited contacts with Reverend Jim Jones in Los Angeles. Eventually, my embellished

story grew to the extent that I had fathered a son in San Francisco by my girlfriend who was a member of the People's Temple and that my girlfriend had taken my son to the People's Temple in Guyana; that my father was a member of, and lived at, the People's Temple in Guyana; that Jim Jones had forced me to orally copulate his penis in front of the People's Temple congregation in San Francisco; that I had appeared in a pornographic movie; that Jim Jones and I attended Fidel Castro's Birthday party in Cuba; that both my "son", my son's mother and my father were subsequently murdered during the Jonestown massacre; and many other blatant lies.

11. Both Adrian and Anne Greek, attorney Ford Greene, CAN deprogrammers Bob Brandyberry and Catholic Father Kent Burtner, and CAN member Wayne Barber knew that my stories about the People's Temple were false, yet never attempted to tell me to stop lying about these experiences. On the contrary, Adrian and Anne Greek and Bob Brandyberry actively advised and encouraged me to make these false statements at PAC and CAN conferences and conventions. During the 1988 CAN sponsored conference held in conjunction with the University of Whitewater in Milwaukee, Wisconsin, Wayne Barber told me that I was CAN's "golden boy" and that I should "keep it up." At the National CAN Convention, held in Pittsburgh, Pennsylvania between October 31 and November 1, 1987, I presented Patricia Ryan with flowers and gave a speech about my "People's Temple" experience to the audience of about

two thousand persons. Patricia Ryan, the daughter of U.S. Congressman Leo J. Ryan, killed at Jonestown, was a CAN member in attendance at the convention. She is now the 1991 National President of CAN. During this speech, I told Ryan and the audience how my "son" and father had been murdered at Jonestown and about other things I had "experienced" at Jonestown. These "stories" brought Ryan and many of the others to tears. I received a standing ovation from the entire audience.

12. After my speech, Anne and Adrian Greek, Bob Brandyberry, Ford Greene and Father Kent Burtner praised me for my performance, even though they knew that my stories were totally false and had actually been concocted with their advice and encouragement. This was the first time I had created the phony story that I had a small son who had died in Jonestown. The Greeks, Brandyberry, Greene, Burtner and I had a good laugh about how the story caused so many persons in the audience to cry.

13. I was advised and encouraged by these persons to keep telling these concocted stories so that people would continue to donate money to PAC and CAN. I feel that as a direct result of my fraudulent assertions regarding my affiliation with Jim Jones and the People's Temple, tens of thousands of dollars were donated to PAC and CAN during the ten years I was affiliated with these groups.

14. Regarding the attached newspaper article from the April 21, 1988 issue of the Milwaukee Journal, my interview had been arranged and attended by a woman named Karen Reinhardt. Karen was the coordinator of the conference sponsored by the University of Wisconsin - Whitewater campus and the national office of the Cult Awareness Network. The article contains examples of lies, misquotes and exaggerations about my experiences in the People's Temple. Note, however, that after it was published, neither I, nor anyone else, sought to correct any parts of the story. The story speaks for itself.

15. During my ten year affiliation with PAC and CAN, the Greeks directed me to pose as a college student and to infiltrate several organizations in the Portland area, including those related to The Way International at Mt. Hood College and The Church of Scientology. However, I never joined nor took courses at either The Way International or the Church of Scientology.

16. Sometime in January of 1980, Anne Greek told me more about her daughter's then current involvement with the Unification Church. Sheryl Greek was about thirty years old at that time.

17. Anne Greek asked me if I would help in the forceful deprogramming of Sheryl. Anne Greek told me that Bob Brandyberry would conduct Sheryl's actual deprogramming and I would assist

him. Anne Greek told me that she trusted me to do this. I agreed to help her. She told me that she and her husband would continue to plan Sheryl's deprogramming.

18. Finally, in April 1980, the Greeks told me it was time to put their deprogramming plans into action. The Greeks told me that I was going to fly with them and Diane Benscoter, a CAN deprogrammer from Portland, to Calgary, Alberta, Canada. Anne Greek told me to bring handcuffs so that she could handcuff herself to Sheryl in the event the police intervened in the deprogramming. However, once we got to the airport in Portland, I decided to leave the handcuffs behind rather than risk setting off the metal detectors before boarding the flight.

19. The Greeks originally told me that they had planned on kidnapping Sheryl in Canada and had planned on immediately bringing her back to the United States where she would then undergo forcible deprogramming by Bob Brandyberry. However, the Greeks changed their minds because of the additional risks posed by having to forcibly transport Sheryl from Canada to the United States.

20. They then decided to kidnap and deprogram Sheryl in Canada. After the deprogramming was successful, Sheryl would then be brought back to the United States voluntarily.

21. The Greeks made airline reservations for themselves,

Diane Benscoter and myself to fly from Portland to Calgary. We all travelled under the alias of the last name Thompson. The Greeks pretended to be the parents of Diane and myself. I think we flew on American Airlines.

22. Upon arrival in Canada, we were met by two older women who said they were associated with a Canadian affiliate chapter of CAN. Adrian Greek later drove to the Calgary airport and picked up Bob Brandyberry who had flown in from Minneapolis, Minnesota. He later picked up another deprogrammer named Ken. I think Ken flew to Calgary from Illinois. Ken is about 7 feet tall and had assisted Ted Patrick, a well known deprogrammer, in previous deprogrammings. I was told that Ken would usually use his large size to be able to physically kidnap the target of the deprogramming.

23. The Greeks told me that they had received information that Sheryl was working at Creative Designs, a Unification Church arts supply store in Calgary. We conducted a surveillance at the store but did not observe Sheryl. Adrian Greek then gave me an old backpack and told me to go into the store posing as a college student. He directed Diane Benscoter to accompany me to distract those inside. Adrian Greek told me that I should attempt to grab as many documents, such as letters, paper, etc., as possible, because we might be able to learn Sheryl's exact location.

Harry Scarff

24. Diane Benscoter and I went into the store. I snuck into the office and took as many documents as I could find. One of the names found on the documents was John Abelseth. The Greeks later told me that Abelseth's parents had been trying to locate him.

25. We spent the next week attempting to locate Sheryl, but were not successful. We subsequently met with John Abelseth's brother and grandmother at a home in Calgary. Bob Brandyberry told them they would have to pay him $25,000 to deprogram John Abelseth. They agreed to pay this amount.

26. During this time period Anne Greek told me that she had received a phone call from Priscilla Coates in the United States. Coates is one of the pioneers of CAN and was active in the organization when it was still known as the Citizens Freedom Foundation. Coates is the 1991 president of the Los Angeles affiliate of the Cult Awareness Network. Coates told Anne Greek that she had just learned that the Unification Church had moved Sheryl Greek out of Calgary two or three days before.

27. According to Priscilla Coates, Sheryl had been moved because another Unification Church member had recently been kidnapped by his parents from the Unification Church in Calgary. The person who had been kidnapped from the Unification Church was Doug Lenz, son of Robert Lenz, who is now a member of the Board of Directors for the Cult Awareness Network. Anne Greek was very

upset to learn that her daughter was no longer in Calgary.

28. At this time, the Greeks stayed in Calgary while Bob Brandyberry, Diane Benscoter and I drove to Edmonton, Alberta. We went there to check out the Creative Designs office in Edmonton. We stayed at the home of a family who was connected to CAN. The home had two extra bedrooms. Diane Benscoter used one while Bob Brandyberry and I used the other.

29. As we were getting ready for bed, Brandyberry walked over to me. He was naked. I had on a T-shirt and shorts. Brandyberry told me that Anne Greek had told him about my previous family problems and that he frequently deprogrammed persons with similar family problems. He said that as part of these type of deprogrammings he would hug persons and show them affection. He told me that he thought this would help me and that he wanted to hug me. He then started hugging and caressing me. Brandyberry was much larger and older than me. He weighed close to 300 pounds and was 36 years of age. I was 23 years old. Brandyberry began fondling my private parts and forced me onto my stomach on top of the bed. I cried and tried to resist Brandyberry's assault. He then forcefully inserted his erect penis into my rectum and ejaculated. After he removed his penis, I continued crying, got up and went into the bathroom to take a shower. I felt awful and ashamed.

30. Brandyberry attempted to enter the shower with me, but I told him to stop. He then told me not to tell anyone, particularly the Greeks, about what had happened. He then tried to convince me that the act of sodomy that he had forced upon me was some type of legitimate counselling therapy.

31. However, I later told Anne Greek about what had happened. She told me that I shouldn't say anything to anyone because she felt Brandyberry was the only one who was qualified to deprogram her daughter, Sheryl, and if I got him into trouble, he wouldn't be able to deprogram her.

32. The following day, Brandyberry, Benscoter and I drove back to Calgary and met with the Greeks. Anne Greek paid each of us for the time we had spent trying to help her locate her daughter in preparation for her daughter's deprogramming. She paid me six hundred dollars. I believe she paid Brandyberry four thousand dollars, Diane three thousand dollars and Ken about four thousand dollars.

33. Brandyberry, Diane, Ken and I then met with John Abelseth's brother. I believe his name is Jim. We planned on how we were going to kidnap John Abelseth.

34. Brandyberry subsequently rented a truck which had a rear door that rolled up. At about 6:00 a.m., Brandyberry placed an old refrigerator in front of the Creative Designs store in

Calgary. We then took a position of surveillance and waited to spot John Abelseth.

35. At about 2:00 p.m., we observed John Abelseth enter the store. Brandyberry instructed me to go into the store and ask John Abelseth if he could help me move my refrigerator into the rented truck. I did this and convinced John to help me. As we climbed into the rear of the truck with the refrigerator, the rear door of the truck was suddenly pulled down from the outside, locking John Abelseth and I inside the truck.

36. We both started screaming. The truck drove away. John Abelseth then started putting himself into a trance, apparently this was something he had been taught by the Unification Church. The truck was driven near to an isolated cabin located in the woods north of Calgary. I believe it was an A-frame type cabin.

37. As the truck's rear door opened, John Abelseth jumped out of the truck, ran and tried to escape. Ken grabbed him and physically carried him into the cabin. Brandyberry video taped much of the kidnapping. Brandyberry told me that he always video taped his deprogrammings.

38. A some point later, Brandyberry got a phone call and was informed that John Abelseth's grandmother had told the police about the kidnapping. Brandyberry was instructed to release John

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Abelseth. John Abelseth was then driven back to Calgary and released.

39. I believe that John Abelseth later brought charges against his brother, Jim Abelseth. I don't believe that John Abelseth ever learned my identity or those of the other kidnappers, however, he may have recognized Brandyberry because both had previously been involved in CARP.

40. Over the next eight years, I was personally involved in several attempted deprogrammings. I once even travelled to Perth, Australia to conduct a deprogramming, however, it was called off before we kidnapped the person.

41. Just before Christmas 1983, I received a phone call from a woman who identified herself as Melinda. Melinda told me that she worked at "Rehab" in Iowa City, Iowa. I had previous knowledge that "Rehab" is the term deprogrammers use to describe a large house, outside of Iowa City, that many deprogrammers, especially Bob Brandyberry, use to send their deprogramees to for post deprogramming therapy. This always happened immediately after they had finished with their deprogramming. Brandyberry had previously told me that "Rehab" charged about $25,000 per week for this therapy. In the past, I had overheard Brandyberry pressure his clients to pay the additional "Rehab" fees by telling them that "if they really loved" the deprogrammed person that they should pay for "Rehab" services. He even told some

that they should mortgage their homes if necessary to raise the money to pay for "Rehab."

42. Melinda told me that she got my phone number off of a list of deprogrammers that Cynthia Kisser had provided to her. She told me that the list had been organized to reflect each deprogrammer's experiences, specialty and price.

43. Melinda said that she had already phoned deprogrammer Steve Hassan, Bob Brandyberry, Mark Blocksom, Lewis and Carol Giambalvo, Dave Clark and Joe Alexander. All of them refused to get involved in the deprogramming because the father either didn't have enough up-front money to pay them or because they didn't want to perform a deprogramming over Christmas. I knew that Brandyberry and Blocksom always charge a minimum of $25,000 to conduct a deprogramming. Melinda asked me if I would be willing to talk to the father. I told her yes.

44. Within ten minutes the father phoned me. His name was Edward L. Fallon II. He told me that he was a fireman from Manhattan, New York, and that he didn't have a lot of money to spend. He was very distraught. He told me that he had previously hired a private investigator to follow his adult son who was a sophomore at the University of Oregon in Eugene, Oregon. His son, Edward L. Fallon III, was born on July 4, 1963 and was 20 years of age at the time. I will refer to the son as "Eddy".

The father told me he hired the private investigator after the son started phoning his mother and had been making strange statements to her.

45. The private investigator told him that he observed the son late at night and early in the morning, frequently in the company of one woman and several men who always dressed in black and acted strangely. The private investigator told him that he thought that Eddy was probably in a Satanic cult.

46. The father told me that he had gotten the Chicago phone number of the Cult Awareness Network and had spoken directly to a woman named Cynthia Kisser. Cynthia Kisser told him that he would have to hire a deprogrammer if he wanted to save his son from the Satanic cult. Kisser told him that because of the Christmas holidays, the Cult Awareness Network had very few persons available to assist him. She then referred him to the "Rehab" organization.

47. The father told me that he didn't have a lot of cash but could put a second mortgage on his home, if necessary, to pay for me to deprogram his son. I told him what deprogramming entailed, including the risk of being arrested during the kidnapping. I also advised him of the cost involved. He vacillated when we discussed how much money he was willing to spend. I finally told him that I would charge him $1,000 per day, plus expenses, instead of a very high flat rate like the

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others charged. I also told him that he would also have to pay for a security team, including paying for their expenses. He agreed to go ahead with the deprogramming.

48. I phoned Adrian Greek and explained the situation to him. Anne Greek was then the vice president of the National Organization of the Cult Awareness Network. Adrian Greek tried to talk me out of helping the man and pointed out that I probably would not get paid, and therefore the risk of getting arrested and not getting paid as well, far outweighed any reason to get involved. I told him that I felt sorry for the man and that I was going to help deprogram his son. I told Adrian Greek that he was acting very selfish by only thinking of money and not thinking of the man's immediate needs.

49. I then phoned Cynthia Kisser, advised her of the situation and asked for her help in arranging for a security team. Kisser asked me if I also thought I needed an assistant to help me in the actual deprogramming . I told her that the man told me that he was even willing to refinance his home to pay for the additional assistance and the security team .

50. Kisser asked me for the man's phone number and I gave it to her. She then told me that she would find an assistant for me and make all of the necessary security arrangements.

51. I next received a phone call from the father. He told me that Kisser had contacted him and given him the name of a Ph.D. student from the state of New Mexico. The Ph.D. student was a member of CAN and a friend of Dr. Jolyon West, a CAN advisor. The Ph.D. student had no prior deprogramming experience but wanted to learn about deprogramming. The Ph.D. student had arranged for two of his male friends to act as security guards during the deprogramming.

52. I then received a phone call from the Ph.D. student. He asked if the situation looked safe. I told him that everything looked okay because Cynthia Kisser would not have gotten involved as much as she had if everything hadn't been alright. I told her that Kisser always thoroughly checked things out in order to minimize the chances of the deprogrammers being arrested and prosecuted. He said okay.

53. I then called the father in New York. He told me that he was going to fly into Eugene, Oregon the following night. He told me that he had prepaid my airline ticket to enable me to fly from Portland to Eugene. I flew to Eugene the next night, and arrived about 11:00 p.m. I was met at the airport by the father, the Ph.D. student from New Mexico and his two security assistants. The father told me that he had already rented a van and wanted to immediately kidnap his son and start the deprogramming. I told him that I was the one in charge and that we were not going to immediately kidnap anyone. I instructed him

to take all of us to a motel where we could discuss the situation and plan the actual deprogramming. We went to the Continental Motel located at 390 East Broadway in Eugene, Oregon. This motel has since changed its name to the Campus Inn.

54. Once at the motel, the father started to change the financial arrangements. We threatened to quit unless he promised to pay us as previously agreed. I then had him sign a number of contracts that had been furnished to me by Adrian Greek. These contracts had been previously written by Bob Brandyberry to protect deprogrammers from legal liability while conducting deprogrammings. The contracts also said that we would be paid in full, whether or not the deprogramming was successful. The contract also gave us the right to use force, if necessary, against the person being deprogrammed.

55. I also told him that I didn't want the Eugene private investigator to be involved in the deprogramming. Later that night, we surveilled the home where the son lived located at 1211 Mill Street. We observed Eddy when he returned home about 1:00 a.m. Shortly thereafter, the father went and knocked at the front door. The rest of us went to the back door. We could hear the father begging Eddy to open the front door, however, Eddy was yelling at his father and refused to open the door. I then quietly unlocked the rear door, using the key previously provided to me by the father, and we snuck into the house.

56. Eddy saw us as we entered the living room and he charged at us, swinging his arms and screaming. The two security men threw Eddy to the floor. I immediately ran and unlocked the front door to let in Eddy's father. All four of us physically restrained Eddy on the floor while his father tried to calm him by talking to him.

57. Eddy continued to struggle in an attempt to get free. I twisted his wrists and placed handcuffs on them. This caused Eddy much pain and he screamed. One of the security men tied a large red bandana around Eddy's head so that it would cover his mouth and gag him at the same time. However, this didn't work because the bandana kept slipping upwards.

58. I told one of the security men to bring me the roll of duct tape that was in the van. I then wrapped the duct tape around Eddy's mouth to prevent him from screaming. I then tied the bandana around his head so it would cover his eyes and thus, block his vision.

59. The four of us picked Eddy up and dragged him to the van. As we did this, Eddy was violently kicking his legs and trying to break free. He was also trying to scream, however, the duct tape prevented him from succeeding. I thought that Eddy was very scared because of what we were doing to him.

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60. We then drove Eddy in the van directly to Bellevue, Washington. I did all of the driving. The trip took about 7 hours. We stopped twice for gasoline and once to eat breakfast at a Burger King. Eddy continued to resist us during the trip, so he was usually kept handcuffed, gagged, and blindfolded most of the time. We did not allow him to eat during the entire van trip.

61. We arrived at the "safe house" in Bellevue at about 8:00 a.m. This house had been previously arranged for by Eddy's father. The house was occupied by friends of the father. These friends, a middle aged husband and wife, also had a seventeen year old son who lived in the home. The father had received the permission of his family to use their home to "counsel" Eddy. However, when they observed Eddy, handcuffed, gagged, blindfolded and physically restrained, they told us they did not want us to use their home. Upon hearing this, Eddy's father started crying. I then explained exactly what was happening and told them about Eddy's involvement in a Satanic cult and convinced them to let us use their home. They finally acquiesced and agreed to stay out of the home until we were done with the deprogramming. They stayed in the house next door. The family did, however, make trips to the grocery store on our behalf.

62. We forced Eddy into a rear bedroom of the house. The windows were boarded shut and we removed the mirror from the

bathroom. We took all of the furniture out of the room except for a mattress and a blanket.

63. For the next three days Eddy was kept handcuffed most of the time. There was always at least one of the security men in the bedroom with him at all times. One of us always remained outside the bedroom door to provide additional security if needed. We also kept Eddy's father away from the bedroom at all times.

64. Finally on the third day, the father insisted that I let him talk to his son privately. We unhandcuffed Eddy and allowed the father to go into the bedroom alone with Eddy. I soon heard yelling and sounds of a struggle coming from the bedroom. We entered the bedroom and found Eddy and his father struggling on the floor. They were both screaming and striking each other. I observed a large welt on the side of Eddy's face. One of his eyes was badly swollen. We physically pulled the father off of Eddy. As we did this, the father punched me in the stomach. We then shoved him out of the room and attempted to calm him down. One of the security men stayed in the bedroom with Eddy while the other stayed in the living room with the father. I then told the security man in the living room that in the event the father tried to go back into the bedroom, the security man had my permission "to kick the shit out of him." The New Mexico Ph.D. student and I went outside of the home and discussed how the deprogramming was falling apart, especially the

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fact that the father had fought with Eddy and had even punched me in the stomach. The Ph.D. student told me that he would follow whatever recommendations I made. He did caution me, however, that if we stopped the deprogramming and merely let Eddy go free that Eddy would probably immediately go to the police and we would all be arrested.

65. I then told Eddy's father that if he interfered with the deprogramming again that the deprogamming would cease and I and the others would immediately return home, leaving him and Eddy to sort out their own problems. I pointed out the probability that Eddy would have his father arrested if this happened.

66. By this time I had concluded that Eddy deeply resented his father yet probably wanted to be close to his mother. I felt that the father probably had interfered with any relationship Eddy tried to have with his mother. The Ph.D. student and I both agreed that Eddy had probably been physically abused by his father since he had been a child.

67. I phoned Cynthia Kisser and explained the entire situation to her. I told her that I needed help if the deprogramming was to continue. I also told her that I felt that I needed a woman to assist me in the deprogramming. I told Kisser that a woman would probably be able to reach out to Eddy

and win his confidence. Kisser told me that she would try and find someone to assist me and would call me back.

68. About three hours later, Kisser phoned and told me that she had found two people to help me. Kisser said they were Mary Alice Chronaloger, a CAN deprogrammer who specialized in Christian cults and Satanic cults, and Shelly, a CAN member who had helped Chronaloger in previous deprogrammings and had agreed to assist her again. Kisser told me to let her speak with the father so that she could tell him how to make the travel arrangements for Chronaloger and Shelly.

69. Chronaloger and Shelly arrived in Bellevue the following evening. Chronaloger told me that she had flown from Memphis, Tennessee. Shelly told me that she had flown from Atlanta, Georgia. Shelly said that her husband worked for Delta Airlines in Atlanta and she had been able to fly for almost free.

70. I explained the entire deprogramming situation to Chronaloger and Shelly. Chronaloger then told me that they wanted to speak alone, separately to Eddy and then to his father, in order to make an independent analysis of the situation. The then did this. About two hours later, Chronaloger told me that she thought that Eddy was not involved in any organized cult but that he was under some type of cultic influence because of his behavior. She told me, because I was in charge, that I had to control the father's actions. Chronaloger told me that she felt

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that Eddy had been "trancing himself out" and that this was systematic of brainwashed cult victims. I disagreed with her and told her that I felt that Eddy was probably just ignoring her like he had been doing to me and the others. I told her that I felt that Eddy was not in any type of a self-induced trance. Chronaloger disagreed and said that any time a person ignored her it was due to the fact that they were in a self-induced trance, which was a key manifestation of a person under the influence of mind control.

71. Chronaloger then told me that she wanted the Ph.D. student removed from the deprogramming process because he had also disagreed with Chronaloger's assessment of the situation. In addition, Chronaloger thought that the Ph.D. student was not qualified to even be present at the deprogramming. Chronaloger said that she had never heard of him before and did not trust him. She said that just because he was a friend of Jolyon West did not make it okay for him to be at the deprogramming. Chronaloger even thought that the Ph.D. student could have been planted there by the Church of Scientology to spy on the deprogramming.

72. I decided that the Ph.D. student would stay and participate in the deprogramming but would only assist me.

73. The deprogramming continued for two more days. Shelly

had several arguments with Eddy's father and told me that she thought he was crazy.

74. Chronaloger then told me that Eddy had told her that he had been sexually and physically abused by his father when he was growing up. Chronaloger stated that she believed that Eddy had been physically abused but did not know if Eddy was telling the truth about whether or not he had been sexually abused. Six days after Chronaloger and Shelly arrived I told Chronaloger and Shelly that the deprogramming wasn't going anywhere and it should be discontinued immediately. Chronaloger refused to stop the deprogramming and told me that she simply did not believe that a deprogramming could not succeed. She then told me that they all simply had to work harder in order to successfully deprogram Eddy.

75. About two hours later, I had a meeting with Chronaloger, Shelly and the father. I told them that the deprogramming should never had taken place because there was no evidence that Eddy was involved in any cult or had ever been under the influence of the cult. I felt that his aggressive behavior was strictly a family problem between Eddy and his father and that we were not qualified to deal with this type of family matter.

76. The father got very angry at me and denied ever abusing his son. He told me that personal matter between Eddy and him

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were none of my business and that I was there to deprogram Eddy, not to accuse him of misconduct.

77. The father told us that at the slow rate the deprogramming was progressing he was never going to be able to pay us all of our daily fees, which were adding up very quickly. Both Chronaloger and I were each charging him $1,000.00 per day, plus expenses. The father told us that Cynthia Kisser had told him that we were expert deprogrammers and that the deprogramming would only take a couple of days. He was very upset because he could see that nothing was being accomplished by the deprogrammers.

78. I then took a walk alone and thought about the situation. I returned to the house about one-half hour later and told everyone that I was going to leave. I told the father to take me to SEA-TAC airport, buy me my return airline ticket and pay me only $300.00.

79. I then went into the bedroom and apologized to Eddy. We then hugged each other. He asked if I could get him out of there. I said I would talk to Chronaloger about this. I then left the bedroom and told Chronaloger about my conversation with Eddy. Chronaloger told me that she was going to continue with the deprogramming.

80. The father drove me to Sea-Tac airport, purchased my return airline ticket and paid me $300.00. I then flew home to Portland. I phoned Chronaloger the following day. She told me that Eddy's father had threatened to not pay anyone and even told them that he was going to go to the police and have everyone thrown in jail. Chronaloger told me that she was not deterred by this and that she was going to continue with the deprogramming.

81. I phoned Chronaloger the following day and she told me that she had gotten the father to pay her part of the money he owed her. She had also concocted a plan to stop the deprogramming. She told me that she had allowed Eddy to phone a girlfriend in Texas and had made arrangements for him to fly there. She was then going to direct Shelly to take the father shopping. Once the father was out of the house, Chronaloger was going to take Eddy to the airport and put him on a plane to Texas. Eddy was very happy about this plan and promised to cooperate with Chronaloger.

82. I then phoned Adrian Greek but he directed me to talk about this situation to Anne Greek instead of him. I then told Anne everything that had happened. She told me that Kisser had been repeatedly phoning her in an attempt to find out what was going on regarding the deprogramming. Anne told me to call Kisser as soon as possible. I believe this was a Saturday and Kisser was not at work. Anne then gave me Kisser's home phone number.

83. I phoned Kisser. She wanted to know why the phone at the deprogamming location in Bellevue was never answered. I told her that we usually had the phone plugged in when we made out-going calls or when we were expecting a call. It was usually unplugged and hidden at other times. This was done to prevent Eddy from having an opportunity to use the phone to call for help. I then explained the entire situation to Kisser.

84. I phoned Chronaloger the next day at her home in Memphis. She told me that she had used the money that the father had paid her to buy Eddy's airline ticket to Texas. She told me that when the father and Shelly got home he immediately found out that Eddy was no longer there. I told him what had happened and he literally went crazy. He became very volatile and slapped Shelly across the face. He threatened to bring civil and criminal actions against all of them.

85. Shelly then contacted the male owner of the home and asked him to drive her, Chronaloger, the Ph.D. student and the two security men to Sea-Tac Airport. The man did this.

86. Chronaloger said that she was unable to purchase airplane tickets for the group to enable them to fly home because her credit cards were at their limit. She then phoned Cynthia Kisser and told her what had happened. Kisser made the necessary

financial arrangements to allow the group to obtain return airline tickets. All of them then flew to their respective cities. Chronaloger said it took Kisser six or seven hours to make the financial arrangement before they could leave. During this time, Shelly was so paranoid that the police were looking to arrest her that she and Chronaloger hid in a women's toilet stall until they were able to board their flight home.

87. The following day, the father phoned me. He was crying and accused me, Cynthia Kisser and the others of deceiving him, manipulating him, taking financial advantage of him and told me that we had all promised him something that we could not deliver. He said that we were responsible for the pain his wife was also suffering as a result. He said he was going to turn us all in to the authorities.

88. I told him that if he did this that I would do the same to him. I also threatened to get him fired from his civil service fire department job and tried to scare him from carrying out his threats. I told him that if he had any misgivings about our qualifications that he should talk to Cynthia Kisser, the first person that he had talked to about the matter. We then terminated the phone call.

89. I immediately phoned Anne Greek and told her about the father's phone call. She said that she would phone Kisser and that I should let Kisser handle the matter.

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90. I knew that Anne Greek and Cynthia Kisser were very good friends the entire time I was involved with PAC and CAN. During this time period Anne was constantly flying from Portland to meet Kisser at various distant locations.

91. About one hour later, Kisser phoned me and said that the father had been phoning and threatening her with civil and criminal actions. She told me that I should not talk to the father if he called me again. Cynthia Kisser then told me that if either I, or any of the others, were arrested that I was to phone Anne Greek and Greek would immediately contact Kisser. Kisser would then immediately pay all of our bail costs. Kisser told me that I, and the others, would have the full support of the Cult Awareness Network in the event that the father carried out any of his legal threats. She then told me that she was going to have CAN's answering machine answer all future calls so that she would not have to again talk with the father.

92. Anne Greek later told me that I should immediately notify Portland attorney Garry McMurray if I got arrested as a result of the deprogramming.

93. About one month later I received a card from the father. He apologized for his previous threats and indicated that he knew that I had done the best job I could. He wrote that

he was not going to bring any actions against me or the others and indicated that he would contact me in the future if he needed to use my services again. This was my last contact with him.

94. One of the other deprogrammings I was involved in dealt with Jim Boland, a member of a Christian church in Oregon. Boland's family attended Saint Rita's Catholic Church in Portland and wanted Jim deprogrammed away from his Christian church. Anne Greek coordinated the deprogramming. I was assisted by Bob Brandyberry, Vince Tarquini, and a man named Ray from Corvallis, Oregon. Both Tarquini and Ray were former members of The Way International.

95. During the deprogramming, I realized that Jim Boland was not under Christian mind control and discussed this with Brandyberry. Brandyberry told me that I was wrong and told me that Jim was, in fact, brainwashed. The deprogramming didn't work and Jim Boland's father refused to pay for the deprogramming. Brandyberry got very upset and threatened the father. The father subsequently paid the $25,000 deprogramming fee to Anne Greek. Anne Greek split the money between herself and the others after she decided how much each of us should be paid.

96. During the national CAN convention in Pittsburgh, Pennsylvania in October and November 1987, I became friends with CAN member Ford Greene. Greene was an attorney from San Anselmo,

California who frequently spoke at CAN conventions and was closely aligned with CAN management. Greene's sister has been a member of the Unification Church for several years. Greene told me that his father and grandfather had both been prominent San Francisco attorneys. Greene's mother, Daphne Greene, had been a member of CAN for several years. Prior to becoming an attorney, Greene had been a member of the Unification Church. Greene left the Church, joined CAN and subsequently became one of CAN's main deprogrammers.

97. Greene and I exchanged phone numbers at the convention. He subsequently phoned me on several occasions, many times very late at night. We would frequently talk until very early in the morning. Greene subsequently invited me to spend Christmas of 1987 with him in San Anselmo.

98. Ford Greene had a small sleeping area in the rear of his law office, this area contained bunk beds. Greene did not maintain any other residence. He didn't even have hot water for bathing at his office. Although his parents were very wealthy, Greene lived a very spartan life style.

99. I slept six nights at Greene's law office and one night at his parent's home. I subsequently became good friends with his parents. Greene told me that his father had repeatedly sexually abused him when he had been a child. He stated that his

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mother had forced him to accompany her when she attended meetings of Parent's United, a sexual abuse help group.

100. During the time I stayed with Greene at his law office he frequently walked around in the nude. On several occasions, I watched him dance nude while he smoked marijuana in the rear of his law office. He told me that he frequented Castro Street, a well known homosexual gathering place in San Francisco, for the purpose of "conducting social research."

101. Greene loved to hug people and told me that he learned this while a member of the Cult Awareness Network. He once hugged me while he was nude and refused to let go. He appeared to be very insecure in his relationships. Although he never engaged in sexual activity with me, I concluded that Greene was probably bisexual and had attempted to encourage me to initiate sexual activity with him. Once, when I walked out of the shower, he took a photo of me using my own camera. Later, when I showed my vacation photos to Anne Greek, she asked about that specific photo. She told me that she had heard others talk about Greene's homosexual activities and asked me if Greene had engaged in any homosexual activity with me. I told her no. I also told her about Greene's weird sexual innuendos and about the things he had told me.

102. Greene frequently smoked marijuana in my presence, including while he drove his vehicle. He also furnished

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marijuana to me. He showed me three large, mason style, canisters in his office. Each was probably two or three gallons in size. Each was filled with marijuana. He told me that he grew his own marijuana crop in a well hidden, secret location, either in, or adjacent to, a nearby park named after his grandmother.

103. Once, Greene took me to this park and showed me a plaque on a large boulder. The plaque contained his grandmother's name. The park is named "Natalie Coffin Greene Park." It's located in a secluded area in Ross, California at the end of Lagunitas Road. Ross is located directly next to San Anselmo in Marin County, just north of San Francisco.

104. Ford Greene usually drove over the posted speed limit. Once, while speeding, we passed a parked police car. I asked him if he was worried about getting a speeding ticket. He said he wasn't worried because all the cops knew and respected his father. For Christmas he gave me a canister of his self-grown marijuana. I subsequently flushed it down the toilet at the San Francisco airport.

105. In 1988, I provided information to writers Fielding MacGee and Rebecca Moore who were writing a book entitled "A Second Look at Jonestown." I did this even after the Greeks and Cynthia Kisser, the executive director of CAN, instructed me not

to.

106. Shortly thereafter, I was quoted in a different book, "Odyssey of New Religious Movements," by John Bierman. Bierman reiterated the facts regarding Bob Brandyberry's sexual assault upon me in Edmonton, Canada. These quotes also upset Kisser and the Greeks.

107. I was soon contacted by Ford Greene, who was then serving as Bob Brandyberry's criminal defense attorney. Brandyberry had been arrested in Denver, Colorado for the kidnapping and forcible deprogramming of Britta Adolfsson, a female adult member of the Unification Church. Greene was very upset about my quotes because Brandyberry hadn't yet stood trial on the kidnapping charges. Greene threatened to sue me for the quotes I had made. I refused to renounce the quotes because they were true. Greene never sued me.

108. I was also a confidential informant for the Denver District Attorney's Office during their criminal prosecution of Brandyberry. Much to my dismay, a Denver detective named Mark Roggerman, who was also a member of CAN, found out what I had told the District Attorney's office in confidence and informed CAN officials.

109. Because of these things I was suddenly blackballed by the Greeks, Bob Brandyberry, Ford Greene, Cynthia Kisser, CAN

official Ron Loomis and other members of PAC and CAN. As of September 1988, I was no longer involved in PAC, CAN or illegal deprogrammings.

I hereby declare under the penalty of perjury that the statements and information contained in this affidavit are true and correct.

Garry Lynn Scarff

GARRY LYNN SCARFF

Witness

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

Before me personally appeared the above named individual on this 1st day of ~~October~~ Nov 1991 and upon presentation of satisfactory identification said person acknowledged his signature above as his voluntary act and deed.

Date:

7-27-92

Notary Public

Garry L Scarff

IOWA STATE DEPARTMENT OF H
Division of Vital Statistics

CERTIFICATE OF LIVE BIRTH
STATE OF IOWA

56-37337

Birth No. 114 — 1237

1 PLACE OF BIRTH
a. COUNTY Lee
b. CITY, TOWN OR LOCATION Fort Madison
c. NAME OF HOSPITAL OR INSTITUTION (If not in hospital, give street address) Sacred Heart Hospital
d. IS PLACE OF BIRTH INSIDE CITY LIMITS? YES ☑ NO ☐

2 USUAL RESIDENCE OF MOTHER (Where does mother live?)
a. STATE Iowa
b. COUNTY Lee
c. CITY, TOWN, OR LOCATION Fort Madison
d. STREET ADDRESS 3312 Ave. G.
e. IS RESIDENCE INSIDE CITY LIMITS? YES ☑ NO ☐
f. IS RESIDENCE ON A FARM? YES ☐ NO ☑

CHILD

3 NAME (Type or print) First Gary Middle Lynn Last Scott 12 07 am
4 SEX Male
5a THIS BIRTH SINGLE ☑ TWIN ☐ TRIPLET ☐
5b IF TWIN OR TRIPLET, WAS CHILD BORN 1ST ☐ 2D ☐ 3D ☐
6 DATE OF BIRTH Month Day Year August 17, 1956

FATHER

7 NAME First Merritt Middle Lynn Last Scott
8 COLOR OR RACE White
9 AGE (At time of this birth) 28 YEARS
10 BIRTHPLACE (State or foreign country) Iowa
11a USUAL OCCUPATION Maintenance Mech
11b KIND OF BUSINESS OR INDUSTRY Sheaffer's Pen Co

MOTHER

12 MAIDEN NAME First Estelle Middle Nadine Last Cox
13 COLOR OR RACE White
14 AGE (At time of this birth) 27 YEARS
15 BIRTHPLACE (State or foreign country) Missouri
16 PREVIOUS DELIVERIES TO MOTHER (Do NOT include this birth)
a. How many OTHER children are now living? 1
b. How many OTHER children were born alive but are now dead? 0
c. How many fetal deaths (fetuses born dead at ANY time after conception)? 2

17a. INFORMANT Mother
17b. MOTHER'S MAILING ADDRESS 3312 Avenue G - Fort Madison Iowa

I hereby certify that this child was born alive on the date stated above.
18a SIGNATURE Robert F. Murphy
18b ATTENDANT AT BIRTH M.D. ☑ D.O. ☐ MIDWIFE ☐ OTHER (Specify)
18c ADDRESS 914 Ave G Fort Madison Iowa
18d DATE SIGNED August 23 56

19 DATE REC'D BY LOCAL REG 8 27 56
20 REGISTRAR'S SIGNATURE Etta Case Lottler
File No. 322
21 DATE ON WHICH GIVEN NAME ADDED BY (Registrar)

519065 OCT 17 84

PLEASE PRINT OR TYPE. PRESS FIRMLY.

VOTER REGISTRATION CARD

SCARFF LAST NAME	GARRY FIRST	Lynn MIDDLE

1912 SW 6th; #519, Portland 97201 Mult.
RESIDENCE ADDRESS NUMBER STREET OR RT # APT OR SP # CITY ZIP COUNTY

MAILING ADDRESS IF DIFFERENT THAN ABOVE

none
PHONE (OPTIONAL)

08 / 17 / 56
MO DAY YEAR
DATE OF BIRTH

Ft Madison, Iowa
PLACE OF BIRTH

n/A
SPOUSE'S NAME

Merritt L Scarff
FATHER'S NAME (IF KNOWN)

Cox
MOTHER'S MAIDEN NAME (IF KNOWN)

INDICATE YOUR CHOICE
PARTY AFFILIATION

DEMOCRAT ☐
REPUBLICAN ☒

I DO NOT WISH TO INDICATE ANY PARTY AFFILIATION. ☐

SEE "POLITICAL PARTY AFFILIATION" ON ENVELOPE

OTHER PARTY (NAME)

IF PREVIOUSLY REGISTERED IN OREGON, COMPLETE THIS LINE (IF KNOWN)

Multnomah
COUNTY

MAY 7 1986

YOUR NAME (IF DIFFERENT THAN ABOVE)

PO Box 8517
Portland, OR 97207
PREVIOUS ADDRESS

WARNING

ANY PERSON WHO SUPPLIES ANY INFORMATION KNOWING IT TO BE FALSE IS SUBJECT UPON CONVICTION TO IMPRISONMENT IN THE PENITENTIARY FOR NOT MORE THAN FIVE YEARS OR TO A FINE OF NOT MORE THAN $2,500 OR BOTH

UNDER PENALTY OF LAW

BY SIGNING THIS CARD I CERTIFY THAT I AM A CITIZEN OF THE UNITED STATES AND SHALL HAVE BEEN A RESIDENT OF OREGON FOR 20 DAYS BEFORE THE NEXT ELECTION AT WHICH I SHALL VOTE. I SHALL BE AT LEAST 18 YEARS OF AGE ON OR BEFORE THE DATE OF THE NEXT ELECTION AT WHICH I SHALL VOTE AND ALL INFORMATION I HAVE SUPPLIED ON THIS CARD IS TRUE TO THE BEST OF MY KNOWLEDGE

10 / 01 / 84
MO DAY YEAR

x Garry L Scarff
YOUR SIGNATURE

SED FORM 134M (REV 6/83)

VOTER REGISTRATION CARD

604794 MAY 7 86

WARNING: Any person who supplies any information or proof of residence, knowing it to be false, is subject upon conviction to imprisonment in the penitentiary for not more than five years or to a fine of not more than $100,000, or both.

1. NAME (Print or type):
SCARFF — LAST
GARRY — FIRST
LYNN — MIDDLE

2. RESIDENCE ADDRESS:
1532 — NUMBER
NE. 21ST ~~St~~ Ave. — STREET OR RT #
#401 — APT. OR SP. #
Portland — CITY
97232 — ZIP

3. COUNTY: Mult co.

4. MAILING ADDRESS IF DIFFERENT FROM ABOVE:
same

5. PHONE (Optional): —

6. PARTY AFFILIATION (See "POLITICAL PARTY AFFILIATION" section on attached envelope.)
- ☐ DEMOCRAT (Primary Ballot: Democratic and nonpartisan candidates and measures)
- ☒ REPUBLICAN (Primary Ballot: Republican and nonpartisan candidates and measures)
- ☐ NONPARTISAN (Primary Ballot: Only nonpartisan candidates and measures)
- ☐ OTHER PARTY (Primary Ballot: Only nonpartisan candidates and measures)

PARTY NAME:

7. DATE OF BIRTH:
08/17/56
MO / DAY / YEAR

8. PLACE OF BIRTH:
Ft. Madison,
Iowa IA

9. SPOUSE'S NAME:
n/A

10. FATHER'S NAME (If known):
Merritt

11. MOTHER'S MAIDEN NAME (If known):
Nadine Cox

12. Have you ever been registered to vote in Oregon? ☒ YES ☐ NO. If "YES", complete this section.
Multnomah — COUNTY (Required)
Garry Scarff — NAME ON PREVIOUS REGISTRATION (Required)
PREVIOUS ADDRESS (If known)

OFFICE USE ONLY

UNDER PENALTY OF LAW: By signing this card, I certify that I am a citizen of the United States and that I shall have been a resident of Oregon for 20 days before the next election at which I vote; that I shall be at least 18 years of age on or before the date of the next election at which I vote; and that all information I have supplied, including proof of residence, is true to the best of my knowledge.

13. 5 / 5 / 86
MO DAY YEAR

14. X Garry L Scarff
YOUR SIGNATURE

SED FORM 134M (REV 1/86)

000054 [illegible] REGISTRATION CARD

[illegible]

NAME [illegible]

SCARFF GARRY Lynn

LAST | FIRST | MIDDLE

[illegible] 2117 NE Multnomah St

COUNTY Multnomah

[illegible] CITY Portland [illegible] 97232

[illegible] —

[illegible] —

[illegible]

☒ DEMOCRAT [illegible]

☐ REPUBLICAN [illegible]

☐ [illegible]

☐ OTHER PARTY [illegible]

PARTY NAME

[illegible] Oregon? ☒ YES ☐ NO [illegible]

Multnomah | Same | Same

COUNTY [illegible] | [illegible] | PREVIOUS ADDRESS [illegible]

UNDER PENALTY OF LAW [illegible]

03-18-361

08 / 24 / 87 X Garry L. Scarff

[illegible]

DATE OF BIRTH 08-17-56

MO. DAY YEAR

PLACE OF BIRTH Ft. Madison, Iowa

SPOUSE'S NAME none

FATHER'S NAME Merritt Scarff

MOTHER'S MAIDEN NAME Nadine Beetle Cox

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, CA 90028.

On March 4, 1993 I served the foregoing document described as DECLARATIONS OF TIMOTHY BOWLES, KAREN HOLLANDER, ROBERT WIENER AND GARRY L. SCARFF IN SUPPORT OF PLAINTIFF'S OBJECTION TO DECLARATION OF GARRY L. SCARFF on interested parties in this action as follows:

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in a sealed envelope addressed as follows:

Ford Greene **BY TELEFAX & U.S. MAIL**
Hub Law Offices
711 Sir Francis Drake Boulevard
San Anselmo, CA 94960-1949

[X] BY MAIL -- I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

Executed on March 4, 1993 at Los Angeles, California.

[ ] BY PERSONAL SERVICE -- I delivered such envelopes by hand to the offices of the addressee.

Executed on ___________, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Paul Bradford
Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, CA 90028.

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[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in a sealed envelope addressed as follows:

Paul Morantz VIA TELEFAX & U.S. MAIL
P.O. Box 511
Pacific Palisades, CA 90272

[X] BY MAIL -- I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

Executed on March 4, 1993 at Los Angeles, California.

[ ] BY PERSONAL SERVICE -- I delivered such envelopes by hand to the offices of the addressee.

Executed on _______________, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

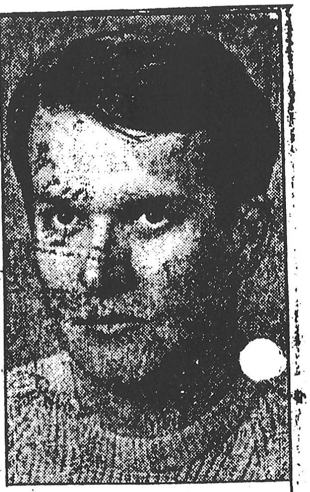
PAUL BRADFORD
Type or Print Name

Signature

HE MILWAUKEE JOURNAL **Metro/State** Thursday, April 21, 1988 — Sec

JO

A survivor: But Jonestown left scars



Garry Scarff

By JACQUELYN MITCHARD
of The Journal staff

Garry Scarff is a gentle-spoken, 31-year-old insurance salesman from Portland, Ore., who tells a tale of horror, abuse, violence and death so harrowing that it strains belief.

Yet, all of it is true, he says.

Scarff is a survivor of Jim Jones' Peoples Temple, the religious cult that began in California and ended Nov. 18, 1978, in a South American jungle. Jones and 913 followers, 364 of them children, died there. They swallowed cyanide-laced Kool-Aid or were shot.

A few hours earlier, Temple members ambushed and killed US Rep. Leo Ryan, a California Democrat, and four others on the airstrip at Port Kaituman, Guyana. One of those ambushers was Scarff's father, a 55-year-old former executive for Trans World Airlines. After the killing, he went back to Jonestown and drank poison.

So did Scarff's 20-year-old girlfriend, who had fed the poison to their 8-month-old son.

Scarff fled the Peoples Temple several months before the massacre. While he was a disciple of Jones, he says, he was forced to perform homosexual acts in front of the congregation. He also was beaten, he says, and watched when one cult member who wanted to leave was thrown from a Los Angeles rooftop.

After his defection and public testimony, Los Angeles police arrested Scarff for that cult member's death, which until then was judged a suicide. Scarff was never charged with complicity in the death because his statements proved that he was only a terrified bystander.

His days in the Peoples Temple left lifetime scars.

"I don't think people understand how important what happened at Jonestown is to us," said Scarff, who is in Milwaukee to attend a conference on cults and coercive persuasion. The conference will be held Friday and Saturday at the Midway Motor Lodge near Mitchell Airport.

The conference, "The Dynamics of Coercive Persuasion," is being sponsored by the University of Wisconsin — Whitewater and the national Cult Awareness Network, based in Chicago. The conference is endorsed by the university's Catholic, Lutheran and Jewish associations. A number of other groups have endorsed it: the school's counseling center and psychology department, the Counseling Center of Milwaukee and the Mental Health Association of Waukesha.

Please see **Cults,** Page 5B

Cult

From Metro Page

Gov. Thompson's designation of this week as Wisconsin Cult Awareness Week has drawn fire from some ministers, among them the Rev. Leo Champion of the Fellowship Missionary Baptist Church of Milwaukee. Champion charges that anti-cult groups are trying to brand some charismatic churches as cults.

Critics of the sponsors include some mainline church groups. The critics say those against cults have become a threat to religious freedom in their zeal to protect society from the evils of mind-controlling groups that the anti-cultists say are destroying the free will of their members.

Sponsors are ready for protests of the conference.

And Cynthia Kisser, executive director of the Cult Awareness Network, denied that her group was a threat to religious freedom. The group is opposed only to the deceptive and unethical practices some groups use to get and keep adherents, she said.

Scarff, the Peoples Temple defector, said legitimate religions had nothing to fear from those who battled destructive cults.

"Cults pretend to offer spiritual help but use deceptive and unethical practices to recruit and indoctrinate followers," he said. "The Peoples Temple wasn't the only one. The Unification Church does the same thing.

"People learn it's OK to lie and steal and cheat and do harm for the good of the cult, which usually means the good of the leader."

Only three months after Scarff joined the Temple, at 18, he was an apostolic guard, sent by Jones to slap and kick followers who nodded off during the leader's eight-hour sermons. He was raped by Jones, he says, and saw Jones' lieutenants beat children unconscious for misbehavior.

No one who grew up with him in Cocoa Beach, Fla., would have known Scarff by 1978. Few would have thought that the sweet-natured, Bible college student who loved theater could have broken into government offices to steal documents, become a morphine addict and worked 16-hour days in the Guyana jungle — all for love o an Scarff now says was mad.

Scarff was a starving actor in Hollywood when he met Jones. Just 18 and unable to survive on bit parts in TV shows, Scarff had made a low-budget pornographic movie. The experience left a stain on the youth, who was brought up as a Mormon. That was the sin he confessed to Jones, after hearing the Disciples of Christ minister preach at the Hollywood Palladium.

"He was loving and terribly charismatic, a real leader," said Scarff, who was impressed by the inter-racial nature of Jones' ministry, his food kitchens and his drug abuse treatment centers. "Here was a side of Christianity I'd never seen."

Jones tenderly forgave Scarff's sins but months later made it clear that he would use those revelations against Scarff if he ever tried to leave.

Jones used tricks, Scarff says, knowing persuasion wouldn't work. He "healed" a blind woman and pulled a cancer from another's neck, before an audience of 600. Scarff was awed, but learned later that the "cancer" was chicken entrails.

The last time Scarff talked with his father was Nov. 17, 1978. His father called him from Guyana, saying that Rep. Ryan was in the room. Scarff cried into the phone, telling his father of Jones' abuses. His father answered, "Really? What did you do to hurt Jim?"

A few hours later, Scarff's father and Ryan were dead.

A suicide attempt got Garry Scarff sent to "the promised land" in the jungles of Guyana. Beaten for conducting a love affair with a young woman in the Temple, Scarff was ordered to have sex with a campaign aide of San Francisco Mayor George Moscone. After the incident, Scarff cut his wrists.

Banished to the snake-infested jungle, he was relieved. Later, he learned his girlfriend was pregnant. "If we'd had the courage, we should have run away," he said.

Just before the mass exodus of Jones' group members to Guyana, Scarff returned to California, ill with asthma. He was shot as he fled from Guyana.

Late in 1978, Scarff heard that Rep. Ryan was on the way to Jonestown with reporters for an investigation. On the evening news Nov. 18, Americans watched as NBC-TV cameraman Bob Brown filmed the attack of the Jonestown fanatics. The film ended when Brown was shot down.

Back at Jonestown, Jones told his followers:

"We've had as much of this world as we're going to get. Let's just be done with it."

A nurse began passing out paper cups of poison to the faithful.

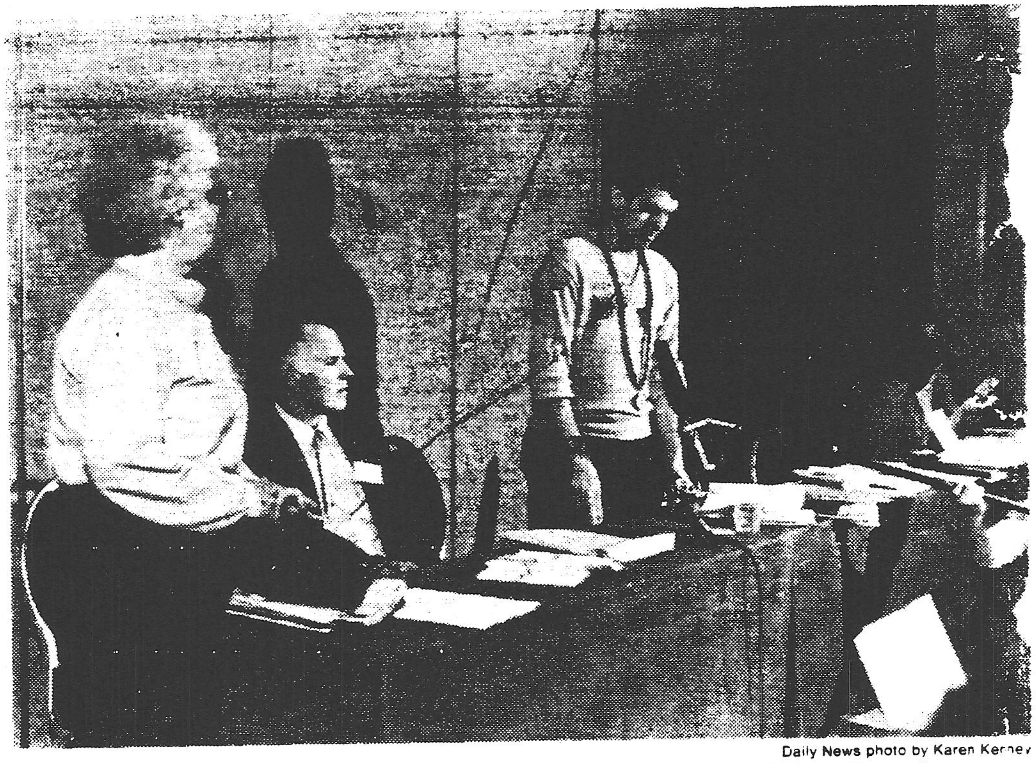
What haunts Scarff most is the death of his baby. "I never got to hold him and be a father to him," he said. "I wanted to so badly."

GLENDALE EDITION
Daily News
FINAL
VOL 73—NO. 12 G Tuesday, November 1, 1983 25c COPY

Cracking the door for a peek at cults

Awareness group draws 400 to weekend conference

By KAREN KENNEY
News Staff Writer



Daily News photo by Karen Kenney

Ann and Adrian Greek of Portland, Ore. listen to Garry Scarff, from People's Temple, discuss Bhagwan Shree Rajneesh's colony in Oregon.

It was a national gathering of cult watchers that included clergy, psychologists, parents and former cult members. It was supposed to enlighten, but fear shrouded the fifth annual conference of the Citizens Freedom Foundation last weekend in Playa del Rey.

Security men checked badges: no badge, no entrance to any lecture or workshop at the AMFAC Hotel. There were rumors of death threats to some speakers and infiltration by Scientologists who had organized a mini counter conference in a hotel suite.

People looked at badges first, not faces, which identified name, city, state, purpose and affiliation. Parents of Moonies knew when they spoke to a former follower of the Rev. Sun Myung Moon's Unification Church. Rabbis and priests knew if they were talking to a parent or psychologist.

"Most of the people here are parents of kids in cults," said one. "They came here to get information and tips on how to stay in touch with their kids."

"The first thing you do is cry, then you get mad," parent Fay Fowler of Fountain Valley interjected. Her daughter is a member of an obscure evangelical sect.

"When she came home and told me, I was listening to my memory of her, not her. I knew something was wrong," she said. "She told me she had crossed over. We no longer had an earthly relationship. That was seven years ago. I joined CFF seven years ago."

Citizens Freedom Foundation (CFF) is billed as a nationwide cult awareness group with 500 members "representing the growing resistance to the destructive cult problem." More than 400 attended this conference.

Speakers included: Rabbi Stephen Robbins, co-chairman of the Jewish Federation Council of Greater Los Angeles' Task Force on Cults and Missionary Activities; sociologist Ronald Enroth, author of the 1977 best-seller "Youth, Brainwashing and the Extremist Cults"; Berkeley psychologist Margaret Thaler Singer, a clinical investigator of mind-control techniques; and Garry Scarff, a former member of the People's Temple. His father died in 1978 at the Jonestown settlement in Guyana.

Scarff was one of three speakers at a workshop titled "Rajneesh & Oregon." He has studied the colony of guru Bhagwan Shree Rajneesh at Rajneeshpuram near Antelope, Ore., since 1979, when his stepbrother became a sannyassin (disciple).

"My father was murdered in Guyana," Scarff told a captive audience. "I'm scared and concerned that Rajneeshpuram will become another Jonestown."

Three former Rajneesh followers in the audience disputed the comparison, but offered a warning to parents.

"Rajneeshpuram is a long way from this room. Those people have lost touch," said one female disciple who described herself as being in hiding. "Don't give up on your children."

Linda Brozio, 34, spent five years in Rajneeshpuram. She left in 1982. "My folks were incredible," she said of their reaction to her involvement. "They said, 'We don't understand your beliefs and we don't like it, but we love you."

One thing parents interviewed had trouble tolerating was the lack of understanding about their plight and cults received from their clergymen.

"One pastor I spoke with in Santa Cruz didn't care about the issue," said one mother from Texas, who asked not to be identified for fear of losing contact with her daughter in a California sect. "He was invited to their ashram and said he didn't think her group was destructive. Two years ago, they told me I couldn't see my daughter and they made her feel guilty if she contacted me."

Sociologist Ronald Enroth of Westmont College in Santa Barbara understood. He criticized clergymen for being apathetic toward and ignorant of destructive cults.

"They have distorted and inaccurate information about most cults," he told the Daily News. "They are more concerned about doctrinal issues or heresy. They know about the Mormons, Christian Scientists and the Jehovah's Witnesses, but they draw a blank if you talk to them about cults that manipulate the minds, behavior and lives of their members."

Please see CULTS Pg. 3

FAY FOWLER

RONALD ENROTH

Daily News photos by Karen Kenney

A cautious look at cults

CULTS from Pg. 1

Psychologist Margaret Thaler Singer and sociologist Richard Ofshe addressed the issue in a workshop titled "Therapy Cults." The tactics of fringe psychotherapy groups — such as EST, Lifespring and Impact — were dissected with a heavy emphasis on thought reform (brainwashing).

Ofshe began by comparing brainwashing techniques of modern fringe psychotherapy groups to those practiced by Korean and Chinese experts in the 1950s.

"These psychotherapy cults use techniques that strip a person of any confidence or ability to function," Ofshe said. "The others used social coercion to change a person's political beliefs. The difference between them is like comparing a slingshot to a .357 Magnum."

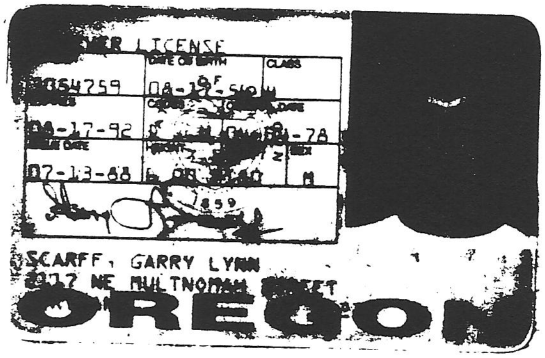
Ofshe, who won a Pulitzer Prize for his published expose of Synannon, said residential or workshop psychotherapy cults rely on allegience to the therapy method or its facilitator to keep followers in the group.

"Upper" groups, usually weekend or workshop types, promise to cure psychological ills, increase intelligence or guarantee instant happiness, he said. "Downer" groups suppress any independent sense of self and try to shatter self-identity, confidence or worth, he added.

Singer underscored the destructive influence of "cultic therapists": "Patients become followers. They give up their true beliefs to obey the will and dictates of their psychotherapist." Many of whom use untrained or unlicensed leaders, who use humilating, public exercises to strip clients of privacy, self-esteem or control.

Other workshops targeted church-state conflicts, First-Amendment issues and the reluctance of traditional churches to actively confront cults.

Rabbi Stephen Robbins capsulized those issues best: "The First Amendment was not created to protect corporate religion but to protect the right of the individual to choose his own religion affiliation."



ER LICENSE

	DATE OF BIRTH	CLASS
354759	08-[illegible]	M
08-17-92	[illegible]	-78
07-13-68	6 08 [illegible]	M

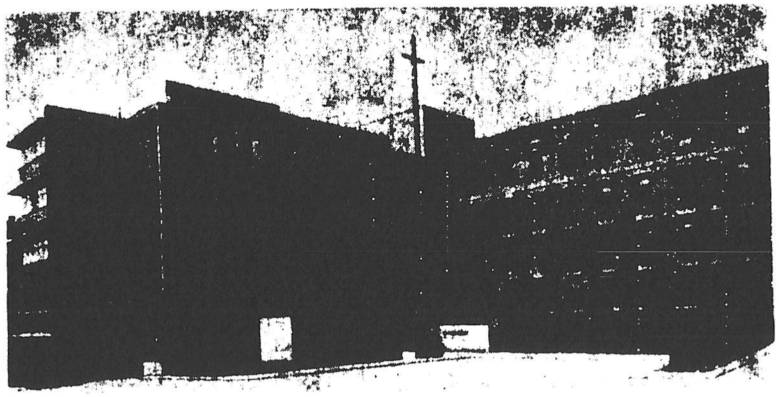
1859

SCARFF, GARRY LYNN
2?17 NE MULTNOMAH [illegible]

OREGON

Sacred Heart Hospital

Fort Madison, Iowa



HOSPITAL BIRTH CERTIFICATE

This Certifies that GARY LYNN SCARFF

was born in Sacred Heart Hospital, Fort Madison, Iowa, at 12:09 A. M. on the 17th

day of August A. D. 1956 County Lee Race white Sex Male Weight 8 Lbs. 0 Ozs.

Father's Name in full Merritt Lynn SCARFF Birthplace IOWA

Residence Address 33 1/2 Avenue G Ft. Madison, Iowa

Mother's Maiden Name Estelle Nadine Cox Birthplace MISSOURI

In Witness Whereof the said Hospital has caused this Certificate to be signed by its duly authorized officer and its Corporate Seal to be hereunto affixed.

(SEAL)

Attending Physician

Sister M. Ancilla
Superintendent

Hospital No. 2377

1249

3B5

HUB LAW OFFICES
Ford Greene, Esquire
California State Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272
(213) 459-4745

Attorney for Defendant
GERALD ARMSTRONG

FILED
LOS ANGELES SUPERIOR COURT
MAR 12 1993
JAMES H. DEMPSEY, CLERK
BY INNA R. MATTHEWS, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiffs, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	No. BC 052395 **DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT** Date: March 5, 1993 Time: 9:30 a.m. Dept: 86 Trial Date: May 3, 1993 Discovery Cut Off: None Set Motion Cut Off: None Set
AN RELATED CROSS-ACTION	

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY

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Ford Greene, Esquire
California State Bar No. 107601
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San Anselmo, California 94960-1949
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Attorney for Defendant
GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

AN RELATED CROSS-ACTION

No. BC 052395

DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT

Date: March 5, 1993
Time: 9:30 a.m.
Dept: 86

Trial Date: May 3, 1993
Discovery Cut Off: None Set
Motion Cut Off: None Set

INTRODUCTION

In the instant case, we are at the threshold of a grievous injustice because Scientology is asking this court to jail Gerald Armstrong because he is alleged to have refused to abide by the terms of an injunction that was beyond the court's jurisdiction to inasmuch it is based upon a contract that is illegal. The contract is illegal because it ws designed to shield Scientology from accountability for the consequences of its eggregious conduct unquestionably harmful to the citicens of this state. Such conduct has been repeatedly condemned by California courts and courts around the world as being similar to the "inquisition," the nightmare of medeival times. The contract assists such escape from accountability by making knowledgeable, informed, and judicially-credited testimony, such as that available from Gerald Armstrong, practically unavailable. When Scientology's conduct has been judicially condemned on the one hand, and it has purchased the silence of those who know about such conduct on the other, it is a rude irony that it employs the authority of the court to enforce the spoils of its corruption.

This is why this Court should close its doors on this proceeding, in limine.

I. THIS COURT MAY RULE ON THE ISSUE OF THE CONTRACT'S ILLEGALITY BECAUSE ITS AUTHORITY IS NOT TO BE USED TO FURTHER CONDUCT THAT IS ILLEGAL

A contract that is "clearly illegal on its face affords cause for declaring its nullity at any stage of the trial . . . ." [1] Levitt v. Clark & Co. (1949) 91 Cal.App. 662, 205 P.2d 747, 749 because courts should not lend their aid to transactions founded on illegal contracts. Schur v. Johnson (1934) 2 Cal.App.2d 680, 86 P.2d 844, 846. Moreover, since the contract is illegal, Judge Sohigian was prohibited by statute and case law from re-writing it in attempt to sanitize it. At most, all Judge Sohigian could have properly done was to sever out the illegal from legal parts. This does not mean re-write the contract.

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[1] Scientology's contention that three Courts have rejected Armstrong's is incorrect. Judge Dufficy expressly stated that he was preserving what he believed to be the status quo and was not making a ruling on the merits when he issued the TRO. Judge Sohigian refused to address the public policy issue as raised by the demurrer in violation of Local Rule ¶ 314. Furthermore, Judge Sohigian acted in excess of his jurisdiction because he re-wrote the contract, eliminating its illegal provisions. Judge Horowitz refused to address the public policy defense raised by demurrer. While Armstrong has raised the issue, no court has yet squarely addressed it.

II. THE SUPPRESSION OF EVIDENCE OF CONDUCT WHICH VIOLATES THE STATE'S COMPELLING INTEREST IN PROTECTING ITS CITIZENS FROM COERCION AND HARM VIOLATES PUBLIC POLICY BECAUSE SUCH SUPPRESSION ASSISTS SCIENTOLOGY'S ESCAPE FROM LIABILITY, IMPEDES THE CITIZENRY'S RIGHT TO REDRESS, AND SKEWS THE INTEGRITY OF THE ADMINISTRATION OF JUSTICE

A. Scientology's Conduct Has Been Found To Be Too Outrageous To Be Protected Under The Constitution And Too Unworthy To Be Privileged Under The Law Of Torts

It has been judicially established that the State of California has a police power interest in controlling the harmful consequences of a cult's coercive practices. Indeed, "when a person is subjected to coercive persuasion [brainwashing] without his knowledge or consent . . [he may] develop serious and sometimes irreversible physical and psychiatric disorders, up to and including schizophrenia, self-mutilation, and suicide." Molko v. Holy Spirit Association (1988) 46 Cal.3d 1092, 1118, cert. denied, (1989) 109 S.Ct. 2110. Thus, the "state clearly has a compelling interest in preventing its citizens from being deceived into submitting unknowingly to such a potentially dangerous process." Ibid. Scientology's use of "auditing" and "disconnect" practices are a form of brainwashing, Wollersheim v. Church of Scientology (1989) 212 Cal.App.3d 872, 880, pet. for cert. granted, vacated and remanded on other grounds, 111 S.Ct. 1298 (1991); aff'd on remand 4 Cal.App.4th 1074 (1992); review granted

S011790 (1992) (on punitive damages issue), and as to such coercion, "the state has a compelling interest in allowing its citizens to recover for serious emotional injuries they suffer through religious practices they are coerced into accepting. Such conduct is too outrageous to be protected under the constitution and too unworthy to be privileged under the law of torts." Id. at 897. Scientology's conduct is so outrageous and unworthy of privilege or protection that it has been compared to modern day "inquisition" because "there are some parallels in purpose and effect" with the horrible Christian practices of yore. Id. at 888.

> "Fair game" like the "inquisition" targeted "heretics" who threatened the dogma and institutional integrity of the mother church. Once "proven" to be a "heretic," an individual was to be neutralized. In medieval times neutralization often meant incarceration, torture and death. [Citation.] As described in the evidence at this trial the 'fair game" policy neutralized the "heretic" by stripping this person of his or her economic, political and psychological power. (see, e.g. Allard v. Church of Scientology (1976) 58 Cal.App.3d 439, 444 ... [Former church member falsely accused by Church of grand theft as part of "fair game" policy, subjecting member to arrest and imprisonment].)

Id. at 888-89.

In Armstrong I, Judge Breckenridge found Scientology to be of the same character as described by the courts of appeal in Wollersheim and in Allard.

> As indicated by its factual findings, the court finds the testimony of **Gerald** and Jocelyn **Armstrong, Laurel Sullivan, Nancy Dincalcis, Edward Walters, Omar Garrison, Kima Douglas, and Homer Schomer to be credible, extremely persuasive** and the defense of privilege or justification established and corroborated by this evidence . . . **In all critical and important matters, their testimony was precise, accurate, and rang true.** The picture painted by these former dedicated Scientologists, all of whom were intimately involved [with the highest echelons of power in] the Scientology Organization, is on one hand pathetic, and on the other,

> outrageous. Each of these persons literally gave years of his or her respective life in support of a man, LRH [L. Ron. Hubbard], and his ideas. Each has manifested a waste and loss or frustration which is incapable of description. Each has broken with the movement for a variety of reasons, but at the same time each is still bound by the knowledge that the Church has in its possession his or her most inner thoughts and confessions, all recorded in "pre-clear folders" or other security files of the organization, and that the **Church or its minions is fully capable of intimidation or other physical or psychological abuse if it suits their ends.** The **record is replete with such abuse.**
>
> . . .
>
> **In addition to violating and abusing its own members civil rights, the organization over the years with its "Fair Game" doctrine has harassed and abused those persons not in the Church whom it perceives as enemies.** The organization is clearly **schizophrenic and paranoid**, and this bizarre combination seems to be a reflection of its founder LRH. **The evidence portrays a man who has been virtually a pathological liar when it comes to his history, background, and achievements.** The writings and documents in evidence additionally reflect his egoism, greed, avarice, lust for power, and vindictiveness and aggressiveness against persons perceived by him to be disloyal or hostile. [2]

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[2] Judge Breckenridge noted Scientology's fraud against the public, history of hiding evidence, including shredding evidence (Exhibit A to opposition to OSC, at p. 2 in Appendix thereto), and that Scientology engaged in "a somewhat sophisticated effort to suppress (Howard Schomer's) testimony . . . it is abundantly clear they sought to entice him back into the fold and prevent his testimony. (Id. at Appendix p. 15) Judge Breckenridge also ruled that Armstrong was free to discuss his Scientology experiences (Id. at p. 3), and thereafter Scientology commenced using contracts such as that underlying the instant action to silence Armstrong and the Armstrong witnesses.

Some of the valuable testimony of Armstrong which the contract seeks to suppress appears also in Judge Breckenridge's decision. Armstrong located documents in the archives of Scientology's founder, L. Ron Hubbard, indicating that representations made by Scientology and Hubbard were lies. When he tried to prevent further deceit on the public, Armstrong was ordered to submit to a "security check." (Id. at Appendix p. 9) He was declared a "suppressive person," was falsely accused of crimes, and made subject to Scientology's "Fair Game Doctrine" -- may be "tricked, cheated, lied to, sued, or destroyed." (Id. at Appendix p. 13.) Armstrong had extensive knowledge of the "covert and intelligence operations" carried out by Scientology against its enemies. (Id. at p. Appendix p. 14.) He was then harassed, followed, surveilled, assaulted, struck by a car, attempted to be hit on the freeway, and trespassed upon by Scientology operatives. (Ibid.)

Armstrong submits that it is against public policy for Scientology to contract to suppress evidence and make it practically unavailable to the victims of its retributive and inquisitional practices. Would it not be against public policy for the Ku Klux Klan to pay off its former officials in the form of contracts so as not to voluntarily testify or assist individuals who were suing it, or contemplating the same, for the violation of their civil rights? Would it not be against public policy for former members of the Nazi Party to voluntarily describe the plans that were made to harm its enemies? Why is it that Scientology is able to silence its former officials through the payment of money and in the guise of a contract? What makes Scientology so different? Is the value of settlement so great because Scientology has developed a reputation of creating nightmare log-jams in the judicial system such that settling its litigation outweighs the elimination of competent testimony in other litigation as the price of obtaining such settlement?

B. Why Does The Contract Violate Public Policy?

The contract violates public policy because on its face it is designed and intended to suppress evidence and obstruct justice by burying it. At its outset, the contract set up what can only be characterized as a collusive appeal that was designed to neutralize the stinging opinion of Judge Breckenridge in Armstrong I. Thus, Paragraph 4-B of the contract states:

> As of the date of this settlement Agreement is executed, there is currently an **appeal pending** before the California Court of Appeal, Second Appellate District, Division 3, arising out of the above referenced action delineated as **Appeal No. B005912**. It is understood that this appeal arises out of the Church of Scientology's complaint against plaintiff which is not settled herein. This appeal shall be

> maintained notwithstanding this Agreement. Plaintiff agrees to waive any rights he may have to take any further appeals from any decision eventually reached by the Court of Appeal or any rights he may have to oppose (by responding brief or any other means) any further appeals taken by the Church of Scientology of California. The Church of Scientology of California shall have the right to file any further appeals it deems necessary. [Emphases added.]

Paragraph 7-D of the agreement prohibits Armstrong from exercising his First Amendment rights to Free Speech on the subject of Scientology. He was prohibited specifically from publishing or attempting to publish any information regarding Scientology, or discussing Scientology with others. He was required to "maintain strict confidentiality and silence with respect to his experiences with the Church of Scientology and any knowledge or information he may have concerning the Church of Scientology, L. Ron Hubbard" or the Scientology Organization.

Paragraph 7-E required Armstrong to return all materials in Appendix A to the agreement, including evidence in Armstrong I and United States v. Zolin. [3]

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[3] Scientology obtained Armstrong's assent so as to use him to retrieve evidence that the judiciary ultimately found to fall within the crime-fraud exception to the attorney-client privilege in United States v. Zolin, then Case No. CV 85-0440-HLH (Tx) in the U.S. District Court, Central District of California, which on December 6, 1986 (the date of settlement), was on appeal before the Ninth Circuit. Armstrong I was ultimately a subject centrally involved in the Supreme Court opinion reported in United States v. Zolin (1989) 109 S.Ct. 2619, 105 L.Ed.2d 469.

Zolin arose from an investigation of L. Ron Hubbard, founder of the Church of Scientology, by Criminal Investigation Division of the Internal Revenue Service ("CID/IRS"). Id. 105 L.Ed.2d at 480. In the course of its investigation, the CID/IRS sought access to 49 documents, including two most important tape recordings, that had been filed under seal in Armstrong I. Id. 105 L.Ed.2d at 481. See also Exhibit 2, ¶ 4. Scientology sought to block CID/IRS access to the documents in Armstrong I by asserting the attorney-client privilege as a basis for injunctive relief obtained in the United States District Court for the Central District of California. Citing the crime-fraud exception (continued...)

Paragraph 7-G prohibits Armstrong from conducting himself wherein he would

> voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations . . . Plaintiff also agrees that he will not cooperate in any manner with any organizations aligned against Scientology.

Paragraph 7-H of the settlement agreement required Armstrong not to participate in any litigation involving the Scientology Organization unless it was pursuant to subpena. But in Paragraph 7-H, however, the agreement required Armstrong to avoid any service of subpena by stating that he "shall not make himself

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[5] (...continued) to the privilege, the CID/IRS opposed. The District Court upheld the privilege. On appeal the Ninth Circuit affirmed. Id. 105 L.Ed.2d at 481-83. The United States Supreme Court addressed whether the attorney-client privilege between Scientology and some of its attorneys should be abrogated on the basis "that the legal service was sought or obtained in order to enable or aid the client to commit or plan to commit a crime or tort." Id. at 105 L.Ed.2d at 489. In Zolin, the Supreme Court reversed the Ninth Circuit's ruling, in United States v. Zolin (9th Cir. 1987) 809 F.2d 1411, that the Government had not made a sufficient showing that there had been "illegal advice . . . given by [Scientology] attorneys to [Scientology] officials" to invoke the crime-fraud exception to the attorney-client privilege. Upon reversing and remanding, the Supreme Court ordered the Ninth Circuit to review partial transcripts of the tape recordings sought by the IRS in the criminal investigation of Scientology to determine whether the crime-fraud exception to the privilege applied. On remand, the Ninth Circuit held:

> The partial transcripts demonstrate that the purpose of the [Mission Corporate Category Sort Out] project was to cover up past criminal wrongdoing. The MCCS project involved the discussion and planning for future frauds against the IRS, in violation of 18 U.S.C. ¶ 371. [citation.] The figures involved in MCCS admit on the tapes that they are attempting to confuse and defraud the U.S. Government. The purpose of the crime-fraud exception is to exclude such transactions from the protection of the attorney-client privilege.

United States v. Zolin (9th Cir. 1990) 905 F.2d 1344, cert. denied, Church of Scientology v. United States (1991) 111 S.Ct. 1309 amenable to service of any such subpena." [4]

Paragraph 7-I required that any evidence developed during the course of Armstrong I to not exist in the future. It states:

> . . . in the event of any future litigation . . . any past action or activity, either alleged in this lawsuit or activity similar in fact to the evidence that was developed during the course of this lawsuit, will not be used by either party against the other in any future litigation. In other words, the "slate" is wiped clean concerning past actions by any party.

Paragraph 10 required Armstrong to

> not assist or advise anyone, including individuals, partnerships, associations, corporations, or governmental agencies contemplating any claim or engaged in litigation or involved in or contemplating any activity adverse to the interests of any entity or class of persons listed above in Paragraph 1 of this Agreement.

Paragraph 18-D required Armstrong not to disclose the contents of the contract to anyone.

When a contract has a single unlawful object, the entire contract is void. Civil Code § 1598. In the alternative, where a contract has several distinct objects, of which one at least is lawful, and one at least is unlawful, the contract is void as to the unlawful part and valid as to the rest. Civil Code § 1599. Where there is no separate forms of consideration specifically attached to the lawful and unlawful parts, respectively, the contract is "an entire contract, and therefore, being void in part, is entirely void and cannot be enforced." Prost v. More (1870) 40 Cal. 347, 348. Likewise, "[i]f there are several considerations for one promise, some of which are legal and others illegal, the promise is wholly void, as it is impossible to say which one of the considerations induced the promise." Mission Brewing Co. v. Rickert (1919) 39 Cal.App. 668, 673. Thus, the rule relating to severability of partially illegal contracts is that a contract is severable if the court can, consistent with the intent of the parties, reasonably relate the illegal consideration on one side to some specified or determinable portion of the consideration on the other side. Keene v. Harling ((1964) 61 Cal.2d 318, 321.

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[4] In full, Paragraph 7H states:

> [ARMSTRONG] agrees not to testify or otherwise participate in any other judicial, administrative or legislative proceeding adverse to Scientology or any of the Scientology Churches, individuals or entities listed in Paragraph 1 above unless compelled to do so by lawful subpoena or other lawful process. [ARMSTRONG] shall not make himself amenable to service of any such subpoena in a manner which invalidates the intent of this provision. Unless required to do so by such subpena, [ARMSTRONG] agrees not to discuss this litigation or his experiences with and knowledge of the Church with anyone other than members of his family. As provided hereinafter in Paragraph 18(d), the contents of this Agreement may not be disclosed. [Emphasis added.]

In the contract at issue, Scientology paid money. In return it obtained the dismissal of Armstrong's cross-complaint, the sealing of the court's file in Armstrong I, and the promises set forth above. Assuming that the contract is unlawful as all its substantive provisions set forth above, but not unlawful as to the dismissal of the cross-complaint, at best the injunction is based upon a contract that is void. In order to determine whether or not said provisions are void, it is necessary to look at the law which relates to the suppression of evidence.

Things which are unlawful are those which are (1) contrary to an express provision of law, or (2) contrary to the policy of express law, though not expressly prohibited. Civil Code § 1667.

Civil Code section 1668 states:

All contracts which have for their object, directly or

> indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of law.

Witkin, California Criminal Law, (2d ed. 1988), Vol. 2, section 1132, at p. 1311, states:

> It is obviously an obstruction of justice to conceal, suppress, falsify or destroy evidence which is relevant and known to be sought or desired for use in a judicial proceedings or an investigation by law officers.

An agreement to suppress evidence or to conceal a witness is illegal. Penal Code sections 136, 136.1 [5] and 138. [6] See also, Mary R. v. B. & R. Corp. (1983) 149 Cal.App.3d 308, 196 Cal.Rptr. 871; Tappan v. Albany Brewing Co. (1889) 80 Cal. 570,

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[5] Penal Code section 136.1, in part, provides:

(a) Except as provided in subdivision (c), any person who does any of the following is guilty of a misdemeanor:
(1) Knowingly and maliciously prevents or dissuades any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.
(2) Knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.
(c) Every person doing any of the acts described in subdivision (a) or (b) knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony . . . under any of the following circumstances: . . .
(2) Where the act is in furtherance of a conspiracy...
(4) Where the act is committed by any person for pecuniary gain or for any other consideration acting upon the request of another person. All parties to such transaction are guilty of a felony.
(d) Every person attempting the commission of any act described in subdivisions (a), (b), and (c) is guilty of the offense attempted without regard to success or failure of such attempt.

[6] "The general rule controlling in cases of this character is that where a statute prohibits or attaches a penalty to the doing of an act, the act is void . . . The imposition by statute of a penalty implies the prohibition of the act to which the penalty is attached, and a contract founded upon such act is void." Smith v. Bach 183 Cal. 259, 262 quoted in Severance v. Knight-Counihan Co. (1947) 29 Cal.2d 561, 177 P.2d 4, 8.

571-572. Since the object of the agreement violates Penal Code § 136.1, it is void.

In Brown v. Freese (1938) 28 Cal.App.2d 608, the California Court of Appeal adopted section 557 of the Restatement of the Law of Contracts prohibiting as illegal those agreements which sought to suppress the disclosure of discreditable facts. The court stated:

> A bargain that has for its consideration the nondisclosure of discreditable facts . . . is illegal. . . . In many cases falling within the rule stated in the section the bargain is illegal whether or not the threats go so far as to bring the case within the definition of duress. In some cases, moreover, disclosure may be proper or even a duty, and the offer to pay for nondisclosure may be voluntarily made. Nevertheless the bargain is illegal. Moreover, even **though the offer to pay for nondisclosure is voluntarily made and though there is not duty to make disclosure or propriety in doing so, a bargain to pay for nondisclosure is illegal.** [Emphasis added.]

Brown 28 Cal.App.2d at 618.

In Allen v. Jordanos' Inc. (1975) 52 Cal.App.3d 160, 125 Cal.Rptr. 31, the court did not allow a breach of contract action to be litigated because it involved a contract that was void for illegality. In Allen, plaintiff filed a complaint for breach of contract which he subsequently amended five times. Plaintiff, a union member, was entitled by his collective bargaining agreement to have a fair and impartial arbitration to determine the truth or falsity of the allegations against him of theft and dishonesty. The allegations of the amended complaints stated that there had been an agreement between the parties whereby defendant laid off plaintiff, defendant's employee, and allowed plaintiff to receive unemployment benefits and union benefits. "Defendants also agreed that they would not communicate to third persons, including prospective employers, that plaintiff was discharged or resigned for dishonesty, theft, a bad employment attitude and that defendants would not state they would not rehire plaintiff." Id. at 163. Plaintiff alleged there had been a breach in that defendants had communicated to numerous persons, including potential employers and the Department of Human Resources and Development, that plaintiff was dishonest and guilty of theft and for that reason had resigned for fear of being discharged for those reasons, that plaintiff had a bad attitude and that defendants would not rehire him. Plaintiff alleged as a result of the breach he suffered a loss of unemployment benefits, union benefits and earnings. The court held that the plaintiff had bargained for an act that was illegal by definition, the withholding of information from the Department of Human Resources Development. It stated:

> The nondisclosure was not a minor or indirect part of the contract, but a major and substantial consideration of the agreement. A bargain which includes as part of its consideration nondisclosure of discreditable facts is illegal. (See Brown v. Freese, 28 Cal.App.2d 608, 618 [83 P.2d 82.].) It has long been hornbook law that consideration which is void for illegality is no consideration at all. [Citation.]

Id. 52 Cal.App.3d at 166.

Whenever the illegality appears, whether the evidence comes from one side or the other, the disclosure is fatal to the case. On its own motion the court should refuse to entertain the action when such illegality appears as a matter of law from the whole case before the court. Industrial Indemnity Co. v. Golden State Co. (1953) 117 Cal.App.2d 519, 256 P.2d 677, 682.

In his work Equity Jurisprudence (4th Ed.1918) § 397 at 738,

Professor Pomeroy states:

> Whenever a party, who as an actor, sets the judicial machinery in motion to obtain some remedy, has violated conscience, good faith, or other equitable principle, in his prior conduct, then the doors of the court will be shut against him in limine; the court will refuse to interfere on his behalf, to acknowledge his right, or to award him any remedy. [Emphasis added.]

Since, there is no question that a contempt proceeding is a remedy for the claimed breach of a preliminary injunction, another remedy, the defense of illegality is properly raised here.

Judge Sohigian exceeded his jurisdiction in issuing the injunction because he re-wrote the agreement in order to eliminate what he viewed to be the illegal consideration. He had no authority to do this. All that Judge Sohigian was entitled to do was to determine whether or not the contract was severable such that the illegal portions could be discarded and the good parts kept. It has long been the law in California that

> When the transaction is of such a nature that the good part of the consideration can be separated from that which is bad, the Courts will make the distinction, for the . . . law . . . [divides] according to common reason; and having made that void that is against law, lets the rest stand. [Citation]. Thus, the rule relating to severability of partially illegal contracts is that a contract is severable if the court can, consistent with the intent of the parties, reasonably relate the illegal consideration on one side to some specified of determinable portion of the consideration on the other side.

Keene v. Harling (1964) 61 Cal.2d 318, 320-21; Brown v. Freese, supra.

> It is well settled that agreements against public policy and sound morals will not be enforced by the courts. It is a general rule that all agreements relating to proceedings in court which involve anything inconsistent with [the] full and impartial course of justice therein are void, though not open to the actual charge of corruption.

Eggleston v. Pantages (1918) 103 Wash. 458, 175 P. 34, 36; Maryland C. Co. v. Fidelity & Cas. Co. of N.Y. 71 Cal.App. 492

Fong v. Miller (1951) 105 Cal.App.2d 411, 414, 233 P.2d 606. "In other words, where the illegal consideration goes to the whole of the promise, the entire contract is illegal." Witkin, § 429 at 386; Morey v. Paladini (1922) 187 Cal. 727, 738 ["The desire and intention of the parties [to violate public policy] entered so fundamentally into the inception and consideration of the transaction as to render the terms of the contract nonseverable, and it is wholly void."].

Although Judge Sohigian could have separated out and severed the illegal parts from the contract, he did not do so. Since, instead, he improperly re-wrote the contract, he acted outside of his jurisdiction, thus rendering his order void.

CONCLUSION

Based on the foregoing points and authorities, it is respectfully submitted that the Order to Show Cause re Contempt should be discharged because as the injunction is based upon an illegal contract, the court was without jurisdiction to re-write it and that such revision form the basis of the injunction.

Respectfully submitted:

DATED: March 3, 1993

By:
FORD GREENE and PAUL MORANTZ
Attorneys for Defendant
GERALD ARMSTRONG

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DEFENDANT ARMSTRONG'S MEMORANDUM IN SUR-REPLY ON ORDER TO SHOW CAUSE RE CONTEMPT

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ. By Fax
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028

[x] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[ ] (Personal) I caused said papers to be personally service on the office of opposing counsel.

[x] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 3, 1993

PSSS

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FILED
MAR 17 1993
JAMES H. DEMPSEY, CLERK
S Robles
BY S. ROBLES, DEPUTY

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY ______ DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

No. BC 052395

DEFENDANT ARMSTRONG'S EX PARTE APPLICATION FOR STAY OF PROCEEDINGS, OR, IN THE ALTERNATIVE FOR A TEMPORARY STAY OF PROCEEDINGS PENDING BRIEFING ON A MOTION FOR STAY, OR, IN THE FURTHER ALTERNATIVE FOR AN EXTENSION OF TIME TO OPPOSE MOTIONS FOR SUMMARY ADJUDICATION; POINTS AND AUTHORITIES; DECLARATION

Date: March 17, 1993
Time: 8:30 a.m.
Dept: 30

Motion Cut Off: April 5, 1993
Discovery Cut Off: 4/5/93
Trial Date: May 3, 1993

TO DEFENDANT CHURCH OF SCIENTOLOGY INTERNATIONAL AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 17, 1993, at 8:30 a.m. or as soon thereafter as the matter may be heard in Department 30 of the above-entitled Court, defendant Gerald Armstrong will submit his ex parte application requesting that the Court issue an Order staying all proceedings herein until the Court of Appeal issues its opinion in the appeal of the injunction issued herein on May 28, 1992, or, in the alternative, that the Court issue an Order staying all proceedings herein until the parties have had an opportunity to fully brief and litigate a motion for a stay of all proceedings pending the determination of Defendant Armstrong's appeal of the aforesaid injunction, or, in the further alternative, that the Court issue an extension of time for Armstrong to file his oppositions to Scientology's three pending motions for summary adjudication.

The grounds for this application are as follows:

1. Since the injunction is mandatory in effect and since the appeal thereof embraces within its scope the legality of the contract upon which it is based, trial proceedings are subject to the automatic stay provisions of Code of Civil Procedure section 916 (a); Paramount Pictures Corp. v. Davis (1964) 228 Cal.App.2d 827, 835; Hayworth v. City of Oakland (1982) 129 Cal.App.3d 723, 727.

2. Since there is a pending contempt proceeding set for June 1, 1993, one month after trial of this action is scheduled to commence, Armstrong is given the Hobson's choice of having to choose between asserting his Fifth Amendment right against self-incrimination and risk evidentiary sanctions at trial, or incriminating himself so that he may participate in his defense in the civil trial. The appropriate remedy for this situation is to stay the trial court proceedings until the Court of Appeal has ruled on the legality of the injunction and contract which it

purports to enforce. Pacers, Inc. v. Superior Court (Needham) (1984) 162 Cal.App.3d 686, 690

3. Scientology's three pending motions for summary adjudication would be mooted if the Court of Appeal reversed the Sohigian injunction because the same defenses Armstrong asserted against injunctive relief are asserted as affirmative defenses against the legality of the contract.

4. Claiming Armstrong's assertion of the Fifth Amendment as a justification, Scientology has started to subpoena all of Ford Greene's ex-Scientologist clients for deposition. If the Court of Appeal holds that the contract is illegal and unenforceable, Scientology will have no justification for the harassment of Greene's ex-Scientologist clients.

Additional legal grounds for this application are Local Rule 261 et. seq. and California Rules of Court Rule 379.

This ex parte application is based upon this notice, the attached declaration of Ford Greene, the Court's files and records in this case and upon such further and additional matter as presented to the Court.

DATED: March 16, 1993

By: ______________________
PAUL MORANTZ
Attorney for Defendant

By: ______________________
FORD GREENE
Attorney for Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This ex parte application seeks a stay of all proceedings in the trial court. Whether or not the contract at the heart of this case is illegal is before the Second District Court of Appeal which will issue its decision in the near future. If the Court of Appeal holds that the contract is illegal, trial court proceedings will be largely, if not entirely, mooted.

There is a contempt proceeding pending against Mr. Armstrong on June 1, 1993. Mr. Armstrong is entitled to the protections of the Fifth Amendment right against self-incrimination. He has been placed in the untenable position of having to either sacrifice that constitutional right so that he can defend himself now and at the civil trial set for May 3, 1993, or potentially incriminate himself in the future criminal proceeding so that he can civilly defend himself now.

Scientology has filed two feet worth of summary judgment motions. If the Court of Appeal finds the contract is illegal, all the work of the parties and the Court from here on out will be wasted.

Scientology is now attempting to take the depositions of Mr. Greene's other ex-Scientology clients. A stay will avoid the necessity of seeking a protective order to prevent such harassment. If the Court of Appeal holds that the contract is illegal, the trial of this case will become moot.

Since the central issue of this entire case - whether or not the contract is legal and enforceable - is before the Court of Appeal, we should await its decision rather than waste time, effort, resources and money.

II. STATEMENT OF FACTS

From August 1991 through May 1992 Gerald Armstrong worked freely as a clerk and paralegal for Ford Greene. On May 28, 1992, the Honorable Ronald M. Sohigian issued a preliminary injunction in this case. The injunction altered the status quo by altering the terms and conditions of Armstrong's employment.

The injunction states that Armstrong could continue "engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order." What was "contrary to the terms and conditions of [the] order" was "doing directly or indirectly" certain acts. Those acts fell into two general categories. The first category was defined as "voluntarily assisting" any private plaintiff litigant intending to make, press, arbitrate or litigate a claim against Scientology "regarding such claim or regarding pressing, arbitrating, or litigating it." The second category was defined as "voluntarily assisting" any private plaintiff litigant.

Since the issuance of the injunction, Scientology requested that this Court hold defendant Gerald Armstrong in criminal contempt of that injunction. On March 5, 1993, the Honorable Diane Wayne refused to proceed at that time with the contempt proceeding. From the bench the Court stated that while at first she thought the injunction was not ambiguous, when she read the comments of Judge Sohigian at the hearing on Scientology's motion for a preliminary injunction her opinion changed. Indeed, her opinion changed such that she considered that it would be a waste of time for court and counsel to proceed on the contempt proceeding, in effect staying the contempt proceedings until June 1 for the expressly stated ground that a decision from the Court of Appeal would be forthcoming by that date. One stated reason for her change of opinion was that in light of Judge Sohigian's comments on the record, the injunction was not clearly enforceable and she had a serious question as to its legality. Therefore, since the legality of the contract was, and is, before the Court of Appeal, she determined it would be a waste of time to address the instances of contempt alleged to have been committed by Armstrong. [1] Judge Wayne deferred dealing with the contempt until the Court of Appeal dealt with the issue of the illegality of the contract which the injunction interpreted. Greene Decl. ¶ 3.

---

[1] Currently, the grant of the preliminary injunction in this case is on appeal before Division 3 of the Second District. Appellant's opening brief was filed on January 20, 1993. Respondent's brief is due on March 22, 1993. Since the issues going to the illegality of the agreement from which the injunction was derived are before the appellate court, it would further judicial economy and the administration of justice for this Court, as Judge Wayne did with the OSC re Contempt, to defer further action in this case pending the appellate court's determination of the issues.

One reason for this is the disparate manner in which various departments of this Court have dealt with Armstrong's assertion that the agreement is illegal. Originally, Scientology tried to enforce the settlement contract in Department 56, before Judge Geernaert who, upon his review of the settlement contract, noted that it violated public policy. He stated:

> "And I make sure that it is the kind of clear and concise order that can be the subject of a contempt proceeding. So my belief is Judge Breckenridge, being a very careful judge, follows about the same practice and if he had been presented with that whole agreement and if he had been asked to order its performance, he would have dug his feet in because that is one of the -- I have seen -- I can't say -- I'll say one of the most ambiguous, one-sided agreements I have ever read. And I would not have ordered the enforcement of hardly any of the terms had I been asked to, even on the threat that, okay, the case is not settled.
>
> I know we like to settle cases. But we don't want to settle cases and, in effect, prostrate the court system into making an order which is not fair or in the public interest."

On March 2, 1993 Scientology served three motions for summary adjudication on defendant, setting the hearing thereon for March 31, 1993, two court days before motions are cut-off. [2] Said motions have any good faith basis only if Armstrong's defenses are entirely without merit. [3] If the court of appeal invalidates the injunction, it will be on the basis of the same arguments and defenses applicable to the contract. That is, the contract is illegal because it is overbroad, ambiguous, violates public policy, constitutes an illegal restraint of trade and is a prior restraint against free speech. If the appeal is granted, Scientology's summary judgment motions will be denied because the same defenses are applicable thereto. Therefore, since the legality of the contract is before the court of appeal, it would be a waste of time to engage in litigation concerning which a decision from the court of appeal will be dispositive. [4]

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[2] LASC Law and Discovery Manual ¶ 212 states "Motions set close to the cutoff date are disfavored."

[3] Even if Armstrong's legal defenses are held to be without merit, his factual defense based upon his Eleventh Affirmative Defense of conflict of interest of his counsel when entering the settlement contract raises an issue of fact. In part, said affirmative defense states: "Plaintiff is barred from bringing this action against these defendants, and each of them, because defendant Armstrong's former attorney, Michael Flynn, in conjunction with settling Armstrong's case against Scientology-related entities, also settled 30 other cases, including cases of his own against Scientology-related defendants without procuring outside counsel for defendant." Thus, it would appear that Scientology's motions for summary adjudication have been brought more for the purpose of burdening, oppressing and harassing Armstrong to as to trammel his effort to prepare for trial, rather than for any legitimate, good faith reason.

On March 5, 1993, Judge Wayne continued the hearing on the OSC re Contempt to June 1, 1993. In consequence, Gerald Armstrong has been put in a legally impossible position. Pursuant to the contempt proceeding, Scientology is requesting that Armstrong be jailed for 40 days.

On March 10, 1993, Scientology resumed the deposition of Mr. Armstrong. During the course of said deposition Mr. Armstrong was compelled to assert his Fifth Amendment right against self-incrimination to a number of questions because the contempt proceeding is still pending against him.

Subsequent to his deposition, Scientology has indicated its intention to depose Ford Greene's ex-Scientologist clients based upon the assertion that if Scientology cannot obtain information from Armstrong, it must obtain such information elsewhere. Greene Decl. ¶ 5.

LEGAL ARGUMENT

III. TRIAL PROCEEDINGS SHOULD BE AUTOMATICALLY STAYED

Code of Civil Procedure § 916 (a) states:

> Except as provided in Sections 917.1 to 917.9, inclusive, and Section 116.810, the perfecting of an appeal stays the proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed on any other matter embraced in the action and not affected by the judgment or order.

In Hayworth v. City of Oakland (1982) 129 Cal.App.3d 723, 727, 181 CR 214, the First District held that the rule of automatic stay does not apply to an injunction which is "prohibitory" in nature, it does apply to an injunction that is "mandatory" in nature.

---

[4] The court should also note that in an apparent attempt to circumvent the 15-page rule, Scientology has filed three motions for summary adjudication.

> An injunction is prohibitory if it merely has the effect of preserving the subject of litigation *in statu quo*, while generally it is mandatory if it has the effect of compelling performance of a substantive act and necessarily contemplates a change in the relative rights of the parties at the time the injunction is granted. If an injunction compels a party to surrender a position he holds and which upon the facts alleged by him he is entitled to hold, it is mandatory. [Citations.] An injunction is prohibitory if its effect is to leave the parties in the same position as they were prior to the entry of the judgment, while it is mandatory in effect if its enforcement would be to change the position of the parties and compel them to act in accordance with the judgment rendered."

Paramount Pictures Corp. v. Davis (1964) 228 Cal.App.2d 827, 835, 39 CR 791.

The Sohigian injunction states:

> Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:
>
> Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.
>
> Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.
>
> The court does not intend by the foregoing to prohibit defendant Armstrong from : (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d)

> properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order."

Prior to the issuance of the injunction, Armstrong could engage in the following conduct and activities:

a. He could speak freely to everyone.

b. He could execute declarations concerning his experiences in and knowledge of Scientology on behalf of private and public plaintiffs and defendants alike.

c. Assist anyone in any way not otherwise prohibited by law.

d. Perform any clerical or paralegal work on any case or matter in Ford Greene's office.

Subsequent to the issuance of the Sohigian injunction, Armstrong has been unable to:

a. Communicate his experiences in or knowledge of Scientology to any other person so that with such experiences or knowledge of Scientology to any private plaintiff litigants [5] against Scientology or anyone intending to file a claim against Scientology so as to assist such plaintiffs or intended claimants in their litigation or claims;

b. Execute declarations on behalf of any private plaintiff against Scientology;

c. Communicate his experiences in or knowledge of Scientology to any other person so that with such experiences or knowledge that other person could assist any private litigant plaintiff against Scientology or anyone intending to file a claim against Scientology in their litigation or claims.

Subsequent to the issuance of the injunction, Scientology has claimed, by means of its initiation of contempt proceedings against Armstrong that he is prohibited from doing any of the following:

---

[5] Armstrong remains free to communicate to governmental litigants, defendant or plaintiff, and private litigant defendants.

a. Relay messages from Greene's Scientology litigation clients to Greene;

b. Relay communications from Greene to his Scientology litigation clients;

c. Mail letters from Greene to his Scientology litigation clients;

d. Receive-stamp mail from Greene's Scientology litigation clients;

e. Log, route, mail, airfreight, messenger, fax, stamp or handle in any way any correspondence, pleadings or documents of any kind relating in any way to any litigation Greene has involving Scientology;

f. File any documents of any kind relating in any way to any litigation Greene has involving Scientology, retrieve any documents from such files, and maintain such files;

g. Copy or assemble any documents of any kind relating in any way to any litigation Greene has involving Scientology;

h. Advise Greene of anything, including errors or dangerous situations, which Armstrong perceives while in his office, which may have any effect on any litigation involving Scientology;

i. Communicate his experiences in or knowledge of Scientology to anyone;

j. Communicate with members of the media about any knowledge he has concerning his present litigation with Scientology.

Prior to the issuance of the Sohigian injunction, Armstrong had been performing all the above stated clerical actions without any threat that such could constitute any violation of law.

Based upon the foregoing changes in circumstances, it is clear that the injunction changed the status quo and is mandatory in effect. It has changed Armstrong's legal position with respect to his participation in the administration of justice, his position with respect to his right to free speech, his position with respect to restraints upon his employment, and his rejection of a collusive and illegal contract thereby requiring him to act in accordance with the injunction.

IV. IT IS FUNDAMENTALLY UNFAIR TO COMPEL ARMSTRONG TO CHOOSE BETWEEN HIS FIFTH AMENDMENT RIGHT AND HIS RIGHT TO PARTICIPATE IN THE DEFENSE OF HIS CASE AS A WITNESS

As noted, since Judge Wayne stayed any action of the March 5 contempt proceeding by continuing the same to June 1, 1993, Armstrong is subject to criminal jeopardy. One the one hand Armstrong is therefore entitled to assert his Fifth Amendment right against self-incrimination, City of Culver City v. Superior Court 38 Cal.2d 435, 541, 241 P.2d 258; Uhler v. Superior Court (1953) 117 Cal.App.2d 147, 255 P.2d 29, 32, while on the other hand he could be subject to evidentiary sanctions at trial for asserting such right. Marriage of Hoffmeister (1984) 161 Cal.App.3d 1163, 208 CR 345. It is not fair for Armstrong to be the subject of simultaneous civil and criminal proceedings in the same action so that in order to defendant himself civilly he must run the risk of incriminating himself criminally based upon an injunction the legality of which is before the Court of Appeal.

In Pacers, Inc. v. Superior Court (Needham) (1984) 162 Cal.App.3d 686, 690, 208 CR 743, the Court of Appeal addressed such a circumstance directly. It stated:

> Where, as here, a defendant's silence is constitutionally guaranteed, the court should weigh the parties' competing interests with a view toward accommodating the interests of both parties, if possible. An order staying discovery until expiration of the criminal statute of limitations would allow real parties to prepare their lawsuit while alleviating petitioner's difficult choice between defending either the civil or criminal case. (See United States v. Kordel, 397 U.S. 1, 9, ... 25 L.Ed.2d 1.)

A fortiori, in the instant case Mr. Armstrong is not merely threatened with criminal proceedings, he is the subject of them.[6] Obviously, a stay of the trial proceedings until there is a ruling from the Court of Appeal will remedy this quandary.

Armstrong is placed in the same position in having to deal with the pending three motions for summary adjudication. He must choose between opposing the motions by means of his testimony which will have the consequence of waiving his Fifth Amendment privilege, or in order not to waive the privilege, he must not provide any testimony in opposition to said motions. This is fundamentally unfair.

V. SCIENTOLOGY WOULD HAVE NO RIGHT TO INTERROGATE GREENE'S EX-SCIENTOLOGIST CLIENTS IF THE COURT OF APPEAL RULES THAT THE CONTRACT IS ILLEGAL

Lastly, Scientology has started to subpoena all of Ford Greene's ex-Scientologist clients for deposition. If the Court of Appeal holds that the contract is illegal and unenforceable, Scientology will have no justification for the harassment of Greene's ex-Scientologist clients. Greene Decl. at ¶ 5.

CONCLUSION

It is respectfully submitted that Mr. Armstrong has been put is a legally untenable position. Thus, Mr. Armstrong requests that this Court issue an order staying all proceedings herein until the Court of Appeal decides the presently pending appeal in this case, or in the alternative, temporarily stay all proceedings until a motion for such a stay can be fully briefed, or in the further alternative a briefing schedule be set for Scientology's three pending motions for summary adjudication.

---

[6] Of course, Armstrong recognizes that contempt are quasi-criminal proceedings. Notwithstanding this distinction, however, all criminal procedural protections attach. LASC Law and Discovery, ¶ 332.

If the Court of Appeal finds that the contract is illegal and trial court actions are not meanwhile stayed, all the trial court's effort will be wasted.

DATED: March 16, 1993

By:______________________________
PAUL MORANTZ
Attorney for Defendant

By:______________________________
FORD GREENE
Attorney for Defendant

Ford Greene, Esquire
California State Bar No. 107601
HUB LAW OFFICES
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272
(310) 459-4745

Attorney for Defendant
GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

No. BC 052395

DECLARATION OF FORD GREENE IN SUPPORT OF EX PARTE APPLICATION FOR STAY OF PROCEEDINGS IN TRIAL COURT

Date: March 17, 1993
Time: 8:30 a.m.
Dept: 30

Motion Cut Off: April 5, 1993
Discovery Cut Off: 4/5/93
Trial Date: May 3, 1993

FORD GREENE declares:

1. I am an attorney licensed to practice law in the Courts of the State of California and am the attorney of record for Gerald Armstrong, defendant herein.

2. On March 16, 1993, at approximately 11:45 a.m. I provided notice that the instant ex parte application would be brought by transmitting a letter by telephonic fax to Mr. Wilson

and Ms. Bartilson. A true and correct copy of said letter is attached hereto as Exhibit A. During the mid-afternoon hours of March 16, 1993, I received a telephone call from defense counsel Andrew H. Wilson. Mr. Wilson advised me that he had received notice of this ex parte application and that his co-counsel, Ms. Bartilson, would be present to oppose it. He further requested that I telecopy our papers to both Ms. Bartilson and him as soon as they were prepared. On March 16, 1993, I served both Mr. Wilson and Ms. Bartilson by fax with a true and correct copy of the herein ex parte application.

3. On March 5, 1993, I was present in Department 86 of the above-entitled Court, the Honorable Diane Wayne presiding, in order to litigate an Order to Show Cause re Contempt that Scientology had obtained against Mr. Armstrong. At that time and place Judge Wayne addressed us from the bench. She stated that when she first read Judge Sohigian's order that it seemed clear to her, but that when she read the transcript of his comments during the hearing on Scientology's motion for a preliminary injunction which preceded the issuance of the order, the order was not at all clear. Judge Wayne stated that she was not convinced that Judge Sohigian's injunction was a valid order and she had a serious question as to its legality. She stated that she felt that it would be a waste of time of the Court and counsel to litigate the contempt proceeding while the same issues tendered in Mr. Armstrong's defense were before the Court of Appeal. Thus, Judge Wayne decided that she would continue the contempt proceedings until June 1, 1993, with the expectation that by such time the Court of Appeal would have ruled on Mr. Armstrong's appeal of the

preliminary injunction and resolved the question of the legality of the injunction.

4. I am plaintiff's counsel in the case entitled, Aznaran v. Church of Scientology of California, et al, US District Court, Central District of California, Case No. CV-88-1786-JMI(Ex). Prior to the issuance of the injunction in this case, Mr. Armstrong worked on all matters I assigned to him in relation to the case. After the issuance of the injunction, Mr. Armstrong is no longer free to do so. Prior to the issuance of the injunction herein, Mr. Armstrong executed declarations for private plaintiff litigants. After the issuance of the injunction, he no longer does so. The injunction impinges upon Mr. Armstrong's free speech rights causing him to chill the expression thereof.

5. Scientology has noticed the deposition of Tillie Good, an ex-Scientologist and my client. Scientology has also expressed its intention to take the depositions of my clients, Denise Cantin and Ed Roberts, both of whom are ex-Scientologists. Attached hereto as further exhibits are true and correct copies of the following documents with their corresponding exhibit designations:

I am informed and believe and allege thereon that the purpose of these depositions is to harass my clients and me for litigating against Scientology and that if the Court of Appeal finds the underlying contract illegal, there will be no colorable basis for such depositions to take place in this action.

6. I am aware that a facsimile copy of this declaration will be submitted to the Court and I authorize the same to occur as if it were the original certified by my original signature.

Under penalty of perjury pursuant to the laws of the State of

California I hereby declare that the foregoing is true and correct according my first hand knowledge except those matters stated to be on information and belief and as to those matters I believe them to be true.

Executed on March 16, 1993 at San Anelmo, California

By: ______________________
Ford Greene

PROOF OF SERVICE

am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DEFENDANT ARMSTRONG'S EX PARTE APPLICATION FOR A STAY OF PROCEEDINGS, OR, IN THE ALTERNATIVE FOR A TEMPORARY STAY OF PROCEEDINGS PENDING BRIEFING ON A MOTION FOR STAY, OR, IN THE FURTHER ALTERNATIVE, FOR AN EXTENSION OF TIME TO OPPOSE MOTIONS FOR SUMMARY ADJUDICATION; POINTS AND AUTHORITIES; DECLARATION; ORDER

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104
By Fax

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard, Suite 2000
Los Angeles, California 90028
By Fax

PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272

[x] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[x] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 16, 1993

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

FILED
LOS ANGELES SUPERIOR COURT
MAR 17 1993
JAMES H. DEMPSEY, CLERK
C x Coleman
BY C. COLEMAN, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

157680
Case No. BC 052395

NOTICE OF RULING

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY

DEPT: 30

TRIAL DATE: May 3, 1993
MOTION CUT-OFF: Apr. 15, 1993
DISC CUTOFF: Apr. 2, 1993

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 17, 1992, the Honorable David Horowitz, Judge of the Los Angeles Superior Court, ruled on defendant Gerald Armstrong's Ex Parte Application for Stay of Proceedings, etc. as follows:

1. Defendant's motion is set for hearing on March 23, 1993, at 9:00 a.m. Defendant's application shall be his moving papers. Opposing papers shall be served by telefax or hand service and

filed by 12:00 p.m. on March 19, 1993. Reply papers, if any, shall be served by telefax or hand service and filed by 12:00 p.m. on March 22, 1993.

2. Defendant's request to be heard on his alternative request for an extension of time in which to oppose summary adjudication motions was denied. The opposing papers are due to be filed according to the rules provided in the Code of Civil Procedure.

3. Plaintiff's counsel was ordered to give notice.

DATED: March 17, 1993

BOWLES & MOXON

By:
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 17, 1993, I served the foregoing document described as NOTICE OF RULING on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE **VIA TELEFAX AND U.S. MAIL**
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

PAUL MORANTZ **VIA TELEFAX AND U.S. MAIL**
P.O. Box 511
Pacific Palisades, CA 90272

Andrew H. Wilson **VIA TELEFAX AND U.S. MAIL**
WILSON, RYAN & CAMPILONGO
35 Montgomery Street
Suite 450
San Francisco, California 94104

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on March 17, 1993, at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ______________, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

PAUL BRADFORD
Print of Type Name

Paul Bradford
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

1291

HUB LAW OFFICES
Ford Greene, Esquire
California State Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360
FAX
PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272
(213) 459-4745

Attorney for Defendant
GERALD ARMSTRONG

FILED
MAR 18 1993
JAMES H. DEMPSEY, CLERK
S Robles
BY S. ROBLES, DEPUTY

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiffs, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	No. BC 052395 By FAX **DECLARATION OF FORD GREENE RE APPLICATION FOR EXTENSION TO OPPOSE MOTIONS FOR SUMMARY ADJUDICATION** DATE: March ~~18~~ 23, 1993 TIME: 8:30 a.m. DEPT: 30
AND RELATED CROSS-COMPLAINT	Discovery Cut Off: 4/5/93 Disco Motion Cut Off: 4/19/93 Trial Date: 5/3/93

FORD GREENE declares:

1. I am an attorney licensed to practice law in the Courts of the State of California and am the attorney of record for Gerald Armstrong, defendant and cross-complainant herein.

2. On or about March 3, 1993, plaintiff and cross-defendant

filed three motions for summary adjudication in the within litigation, setting a hearing date of March 31, 1993. Said motions constitute 92 pages of material not including the exhibits submitted in support thereof.

3. The summary adjudication motions regarding the complaint were served by hand on my office on March 3, 1993, but were served by mail on Mr. Morantz, thereby depriving Mr. Morantz and I of our ability to assist one another during the interim and making said service untimely pursuant to C.C.P. § 437c. The summary adjudication motion on the cross-complaint was served by mail on both Mr. Morantz and me on March 3, 1993 making said service untimely pursuant to C.C.P. § 437c.

4. Scientology timed the service and bringing of said motions at the last possible minute. It knew that my time was dedicated to the preparation of Mr. Armstrong's defense to the contempt proceeding, the trial of which was to be held in Department 86, the Honorable Diane Wayne presiding, on March 5, 1993. The timing of the summary adjudication motions was caluculated to provide me with as little opportunity as possible to effectively oppose them, and to rattle me while preparing for the contempt proceeding as well. I am a sole practitioner. Mr. Armstrong is my sole office support staff. There is only so much which I can do due to limitations of available time and human capacity. In my three years experience of serious litigation against Scientology commencing with the Aznaran case, I have found that Scientology will take as much advantage as possible of my lack of resources and man-power and has spent an inordinate amount of time tracking my practice and scheduling in order to do so.

(Generally, this is why lawyers won't take cases against Scientology.) Furthermore and by way of example, Scientology is aware that I have a 4-week jury trial set for April 12, 1993, which is on for its fifth call in Sonoma County Superior Court, Simon v. Chakpori Ling Foundation, et al., No. 175898.

5. On Tuesday afternoon, March 9, I learned that my co-counsel, Mr. Morantz, was taking his son skiing from Thursday March 11 through Monday March 15, 1993 and could not make any ex parte application for the remainder of the week, but would be available to do on Tuesday March 16, 1993.

6. On March 12, 1993, my office, through Mr. Armstrong, made an appointment with Department 30's clerk, Steve, to obtain ex parte relief on March 16, but learned that the court would be "dark" that day. Instead, on March 12, we made an appointment with Steve to seek ex parte relief on March 17. In response to his inquiry, we told him the purpose of the application was to seek a stay or to obtain an extension of time to respond to the summary adjudication motions.

7. On March 17, 1993, Mr. Morantz appeared on the ex parte matter seeking either (1) an immediate stay of all proceedings pending a decision from the appeal of the legality of the contract at issue that presently is before the Fourth Division of the Second District Court of Appeal, No. B 069450, (2) a temporary stay pending a full hearing on the motion for a stay, or (3) an extension of time to file oppositions to the three motions for summary adjudication.

8. I am informed and believe and alleged thereon that when Mr. Morantz made the ex parte application on March 17 the Court

set a hearing for March 23, 1993 on the motion for stay and set a briefing schedule thereon. I am advised by Mr. Morantz that, in addition to the foregoing, the Court took no further action.

9. On March 17, 1993, I received what was purported to be a notice of ruling from Scientology counsel which stated that the Court expressly ordered that any extension of time within which to file oppositions to the summary adjudication motions was denied and had ordered plaintiffs to give notice thereof. Mr. Morantz advises me that such is false.

10. For the reasons set forth above, I have not been able to file oppositions to the summary adjudication motions and made every effort to obtain a continuance thereof. As to the two summary adjudication motions on the complaint, I am in default and as to the summary adjudication motion on the cross-complaint, it was not timely served. In light of the Court's ruling on the March 17, 1993 ex parte application, I am not certain whether any extension of time was granted or not and for the record am advising the Court of the events leading to yesterday's ex parte application.

11. I am aware that a facsimile copy of this declaration will be submitted to the Court and I authorize the same to occur as if it were the original certified by my original signature.

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Under penalty of perjury pursuant to the laws of the State of California I hereby declare that the foregoing is true and correct according to my first-hand knowledge, except those matters stated to be on information and belief, and as to those matters, I believe them to be true.

Executed on March 18, 1993, at San Anselmo, California

FORD GREENE

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DECLARATION OF FORD GREENE RE APPLICATION FOR EXTENTION TO OPPOSE MOTIONS FOR SUMMARY ADJUDICATION

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104
By Fax

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
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Los Angeles, California 90028
By Fax

PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272

[x] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[x] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 18, 1993

1297

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FILED
MAR 19 1993
JAMES H. DEMPSEY, CLERK
S Robles
BY S. ROBLES, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG and DOES 1 through 25, inclusive,

Defendants.

AND RELATED CROSS-ACTION.

CASE NO. BC 052395

PLAINTIFF'S OPPOSITION TO ARMSTRONG'S ALTERNATIVE APPLICATION TO STAY PROCEEDINGS; DECLARATION OF LAURIE J. BARTILSON IN SUPPORT THEREOF

Date: March 23, 1993
Time: ~~9:00 a.m.~~ 830
Dept: 30

Trial Date: May 3, 1993
Disc. Cutoff: Apr. 2, 1993
Mtn. Cutoff: Apr. 15, 1993

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY

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I.

INTRODUCTION

This latest in a seemingly endless series of delaying tactics engineered by defendant Gerald Armstrong ("Armstrong") to prevent final adjudication of the merits of plaintiff Church of Scientology International's claims for breach of contract must be rejected swiftly and summarily. After Armstrong delayed determination of plaintiff's initial request for preliminary injunction for four months, preliminary injunction was entered in this matter nearly one year ago ("the Order"). [Ex. A, Order of May 28, 1992.] Armstrong sought no reconsideration of the injunction, and made no request for extraordinary relief in the form of a writ. He filed a notice of appeal, delayed obtaining a briefing schedule, and sought and obtained two extensions of time before filing his opening brief. [Declaration of Laurie J. Bartilson, ¶¶ 12, 14.] He did not ask either the court issuing the injunction, or the appellate court, for any stay of proceedings while the appeal was pending. Belatedly, he requested a stay during the status conference held with this Court in December, 1992. His request was denied, and a trial date set. Now, on the eve of trial, and with potentially dispositive motions pending, Armstrong is attempting to stay all proceedings until after his appeal of the Order is decided.

Armstrong's request consists of a series of arguments raised on the shaky foundations of falsehoods, half-truths, and misunderstandings. Armstrong argues, for example, that the Order is a mandatory injunction; it is not. He then argues that if the Order were a mandatory injunction, this would require an automatic stay of the trial court proceedings; it would not. He insists that he should not be compelled to respond to discovery in this case because he has belatedly decided to invoke the protection of the Fifth Amendment for his violations of the Order; he may not. Perhaps most critically, he has repeatedly insisted to the Court that his appeal of the Order will require the Court of Appeal to determine "the issue of the illegality of the contract" which forms the underlying basis for plaintiff's complaint. It will not. As demonstrated below, Armstrong's latest attempt to manipulate the halls of justice must be rebuffed, and his motion denied.

II.

RELEVANT FACTS

Armstrong has presented the Court with a skewed version of "the facts," conveniently omitting relevant items when it suits him, and presenting the Court with his lawyer's freewheeling version of remarks by Judge Wayne. Here, plaintiff will briefly correct the record presented by Armstrong so that the Court may have the benefit of a complete set of facts on which to base its ruling.

This action was filed by plaintiff in Marin County, where Armstrong resides, in February, 1992. The original complaint charged Armstrong with 4 breaches of the Settlement Agreement signed by the parties in 1986, and sought liquidated damages, consequential damages, and a permanent and preliminary injunction enjoining Armstrong from further breaches.

The reason for plaintiff's action was clear and straightforward. In 1986, Armstrong was a bitter anti-Church litigant, actively involved in not only his own litigation, but in that of dozens of other litigants and would-be litigants. Provisions of the Agreement were written to ensure that peace with Armstrong would be a permanent and lasting peace. In exchange for a settlement of approximately $800,000, Armstrong agreed not only to dismiss his own litigation, but to cease permanently his voluntary efforts to aid other anti-Church litigants and detractors. [Ex. A to Amended Complaint.] In 1991, after he had spent or given away all of his settlement funds, Armstrong began, openly and with apparent delight, to help a new set of anti-Church litigants and would-be litigants. When plaintiff told Armstrong that his activities were violating the Agreement, Armstrong's response was to suggest that the Church pay him more money. This litigation followed.

Armstrong successfully delayed hearing on plaintiff's concurrently-filed motion for preliminary injunction for nearly four months. By the time the motion was finally heard and decided, resulting in the Order, Armstrong had already engaged in additional breaches of the Agreement. Meanwhile, discovery revealed still more breaches. On June 4, 1992, plaintiff filed its First Amended Complaint, charging Armstrong with eleven separate causes of action for breach of the Agreement, and a twelfth claim seeking permanent injunctive relief.

The existence of the Order, however, did not seem to have a deterrent effect on Armstrong. Pronouncing it "cryptic" and "difficult to interpret," Armstrong's attorney, Mr. Greene, chose not to prevent Armstrong from actively working on the case files of other anti-Church litigants. When plaintiff questioned Armstrong about his activities in deposition, Mr. Greene and Armstrong cavalierly invoked the attorney-client privilege on behalf of the clients for whom Armstrong had worked. [See Ex. B, Plaintiff's Application for Order to Show Cause re Contempt, pp. 6-7, and Exhibit D thereto, pp. 448:9 - 451:20; 454:11 - 458:17.] Although at one point Armstrong attempted to assert the Fifth Amendment privilege, Mr. Greene quickly asserted that this was not proper, and not the privilege on which Armstrong was relying for his refusal to answer. [Ex. C, Deposition of Gerald Armstrong, October 7, 1992, 336:13-24.] On December 22, 1992, Armstrong sent a letter to plaintiff's counsel and 35 other signatories, in which, inter alia, he claimed that he was "the only person in the world willing to help" anti-Church claimant Ed Roberts, and made a "settlement offer" which was contingent upon plaintiff paying Roberts, as well as paying Armstrong an additional $500,000. [Ex. D.]

On December 31, 1992, plaintiff requested and obtained, from the Judge who had issued the Order, an Order to Show Cause Why Gerald Armstrong Shall Not Be Held in Contempt for his violations of the Order. [Ex. E.] Hearing on the Order to Show Cause was set for February 16, 1993.

Meanwhile, in January, 1993, plaintiff filed a motion to compel Armstrong to answer the questions which he had refused to answer in deposition. Despite the pendency of the OSC re contempt, Armstrong still did not, in opposing the motion, attempt to raise a Fifth Amendment privilege. [Ex. F, Armstrong's Opposition to Motion to Compel.] This Court granted plaintiff's motion, and ordered Armstrong to answer all of the questions. Armstrong's oral motion to be permitted to belatedly raise privilege assertions was denied. [Ex. G, Transcript of Proceedings, February 19, 1993, pp. 5-6.] Thereafter, in deposition on March 10, 1993, he nonetheless refused to answer many of the questions which the Court had ordered him to answer, claiming for the first time, a Fifth Amendment privilege. [Declaration of Laurie J. Bartilson, ¶ 4.]

The OSC came on for hearing before the Honorable Diane Wayne on March 5, 1993. On that date, Judge Wayne continued the hearing until June 1, 1993, stating that she preferred to have the Court of Appeal adjudicate the validity of the Order of Injunction before she found Mr. Armstrong in contempt. Judge Wayne also expressed agreement with plaintiff's arguments that issues concerning the validity of the underlying Settlement Agreement were not before her on the OSC.

As is plain from the transcript of the hearing held by Judge Wayne, Exhibit H, Judge Wayne did not express the view (as urged by Armstrong) that she "had a serious question" as to the "legality" of the injunction, and expressed no opinion at all concerning the legality of the underlying Agreement. Judge Wayne's expressed uncertainties had to do with whether the order was an order capable of being followed. [Ex. H, p. 4.] After continuing the hearing, she impressed upon Armstrong her view that she took contempt of Court very seriously, and warning him that, "if that's a valid order, each time he disobeys it he faces 5 days in jail." [Id., p. 5.]

On March 2, 1993 and March 3, 1993, plaintiff filed three motions for summary adjudication. Each of the motions seeks adjudication, prior to trial, of a discrete set of claims. The first, Motion for Summary Adjudication of the Fourth, Fifth, Sixth, Seventh, Ninth and Eleventh Causes of Action, seeks summary adjudication of plaintiff's claims for liquidated damages as to which there are no disputed issues of material fact.[1] The second, plaintiff's Motion for Summary Adjudication as to the Twelfth Cause of Action, asks for summary adjudication of plaintiff's request for permanent injunctive relief. The third motion seeks summary adjudication of two of Armstrong's cross-claims.

The summary adjudication motions were set for hearing on March 31, 1993.[2] Pursuant to C.C.P. §437c(b), oppositions to the motions were due to be filed and served 14 days prior to the hearing date, or by March 17, 1993. Plaintiff has, to date, received no oppositions from Armstrong. Armstrong filed his application for ex parte relief on March 17, 1993. Armstrong's counsel made no effort to contact plaintiff's counsel and seek an extension of any kind. [Declaration of Laurie J. Bartilson, ¶ 17.] The Court set a date for hearing of March 23, 1993, and denied Armstrong's counsel's request to be separately heard regarding his request for an extension of time in which to file oppositions. [Ex. J, Notice of Ruling.]

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[1] Armstrong's assertion that a factual question exists as to whether or not he has a claim for malpractice against his own former lawyer [Application, Footnote 3] is interesting, but nonetheless raises no issue of disputed material fact relevant to plaintiff's claims. If Armstrong believes that such factual issues exist, he should, of course, have raised them in timely-filed oppositions to plaintiff's motions.

[2] Pursuant to CCP §437c, such motions must be set for hearing at least thirty days before trial, which is set in this case for May 3, 1993. Plaintiff would have been more than happy to file these motions sooner; however, Armstrong's continual delays in providing plaintiff with discovery made this impossible. See, Bartilson Dec., ¶¶ 7-15. The motions on plaintiff's complaint were hand-served on Ford Greene on March 3, and mail-served on his co-counsel, Paul Morantz. The motion on the cross-complaint was hand-served on Paul Morantz on March 4, and served on Ford Greene on that same date by mail and telefax. [Ex. I, Proofs of Service.]

III.

THE PENDING APPEAL WILL NOT ADJUDICATE THE MERITS OF THIS CASE

The bulk of Armstrong's papers are devoted to the proposition that the pending appeal deals with the ultimate issues to be decided by the Court in this case, warranting a stay of proceedings herein. This proposition is false. The cases are adamant that, "[t]he grant of a preliminary injunction does not determine any of the merits of the controversy." Youngblood v. Wilcox (1989) 207 Cal.App.3d 1368, 1372, 255 Cal.Rptr. 527, 529, and cases cited. Indeed, a court reviewing a grant of preliminary injunction will only "'determine whether the trial court "exceeded the bounds of reason" in determining [plaintiff] has a "reasonable probability of prevailing on the merits" and that the "balance of hardships" favors [plaintiff].'" Id. at 1573, quoting Baypoint Mortgage Corp. v. Crest Premium Real Estate Etc. Trust (1985) 168 Cal.App.3d 818, 823, 214 Cal.Rptr. 531.

So, here, Armstrong's appeal deals only with the Order of injunction issued by Judge Sohigian. The reviewing court will decide, not the merits of plaintiff's eleven claims for breach of contract and single request for permanent injunction, but whether or not Judge Sohigian abused his discretion by issuing the preliminary injunction. The Order itself does not discuss the entire Settlement Agreement, nor does it act as a final and appealable adjudication of any of Armstrong's defenses.[3] There is thus no reason to delay the adjudication of this case on its merits while waiting for the Court of Appeal to evaluate the merits of the preliminary injunction.

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[3] Armstrong's many and varied defenses boil down to a claim that some of the terms of the Settlement Agreement violate public policy. A severability clause in the Agreement provides that, even if some of the terms are found to be unenforceable, plaintiff is entitled to enforcement of the remainder of the contract. [Ex. A to Amended Complaint, ¶ 16.] Since Armstrong retains the proceeds of the Agreement which he now contends is "illegal," plaintiff is entitled to an adjudication of all of its claims for breach of the contract's many provisions.

Indeed, there is instead every reason to proceed rapidly to trial, and present to the appellate court a complete record, should Armstrong desire to present the appellate court with a complete record concerning the Settlement Agreement and his violations.[4] See, e.g., IT Corporation v. County of Imperial (1983) 35 Cal.3d 63, 75, 196 Cal.Rptr. 715, 723 (in hazardous waste case, "[t]his court's affirmance of the preliminary injunction is not a decision on the merits of the complaints filed by the parties. A full hearing at trial is still required to adjudicate the ultimate rights in controversy here. . . . Consequently, the trial court is encouraged to schedule this action for trial at the earliest possible date." (citations omitted)).

IV.

THE INJUNCTION IS PROHIBITORY ON ITS FACE, AND REQUIRES NO STAY OF ANY KIND

Armstrong also argues belatedly that these proceedings should be stayed because the Order is a "mandatory" injunction, and C.C.P. §916(a) provides for an automatic stay in the case of "mandatory" injunctions. Armstrong is wrong here for two reasons: first, because the injunction is not mandatory, and second, because the only stay authorized by §916(a) is a stay of the injunction; by its very terms "the trial court may proceed on any other matter embraced in the action and not affected by the . . . order."

According to the Civil Code, a mandatory or "specific" injunction compels a party to do "that which ought to be done." C.C. §3367(2). A preventative or prohibitory injunction, in contrast, prohibits a party from doing "that which ought not to be done." C.C. §3368. It requires a party "to refrain from a particular act." C.C.P. §525. The cases note that,

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[4] The issues presented on appeal are limited to those raised by the preliminary injunction, which plainly do not include all of the matters raised in the pleadings -- the Amended Complaint, Answer, Amended Cross-Complaint and Answer to Cross-Complaint -- all of which were filed after the order of injunction. Even if Armstrong were to successfully convince the Court of Appeal to vacate the preliminary injunction (a possibility which seems extremely remote), plaintiff's claims for relief for breach of contract, including liquidated damages, for example, would be completely unaffected.

> The purpose of mandatory relief is to compel the performance of a substantive act or a change in the relative positions of the parties. By contrast, the prohibitive order seeks to restrain a party from a course of conduct or to halt a particular condition. The character of prohibitory injunctive relief, however, is not changed to mandatory in nature merely because it incidentally requires performance of an affirmative act.

People v. Mobile Magic Sales, Inc. (1979) 96 Cal.App.3d 1, 13, 157 Cal.Rptr. 749, 756 (emphasis supplied).

The cases also make it plain that an injunction is not transformed into a mandatory injunction simply because the party enjoined is claiming more rights than the Order permits him. In People v. Mobile Magic Sales, Inc., supra, for example, mobile home dealers were enjoined from displaying mobile homes for sale in certain mobile home parks. The injunction required them to remove mobile homes which were already on display. Nonetheless, the Court of Appeal found that this was a prohibitory injunction, stating, "While the act of removal is an affirmative act, it is incidental to the injunction's prohibitive objective to restrain further violation of a statutory provision." Id.

So, here, Armstrong's claims that he is prevented from exercising rights which he formerly enjoyed, in violation of the Settlement Agreement, do not transform the Order into a mandatory injunction. Armstrong had already surrendered all of those "rights" by Agreement in 1986. The purpose of the Order, as in Mobile Magic, is to restrain Armstrong from further violations of the Agreement. Indeed, the Court specifically found that "[t]he granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial." [Ex. A, p. 1.] Accord, Youngblood v. Wilcox, supra, 207 Cal.App.3d at 1372, fn. 1 (injunction which restrained country club from interfering with plaintiffs' enjoyment of benefits of lifetime membership was prohibitory, even though country club had revoked membership prior to issuance of injunction).

Moreover, even if the injunction were found to be mandatory, such a finding does not mandate a stay of these proceedings. As demonstrated in Part III, supra, Armstrong's appeal of the preliminary injunction does not deal with the majority of the issues to be tried in this case. Under the terms of §916(a) itself, only the injunction would be subject to a stay.[5]

V.

ARMSTRONG'S BELATED ATTEMPT TO CLAIM THE PROTECTIONS OF THE FIFTH AMENDMENT DO NOT JUSTIFY A STAY OF PROCEEDINGS

Armstrong's last argument is perhaps the most novel, but is equally unavailing. Armstrong is attempting to convince the Court that a stay of proceedings is warranted because he and his counsel have just decided that Armstrong should begin to rely on the Fifth Amendment to cover up his ongoing violations of this Court's orders. The fallacy of this argument is twofold: first, Armstrong may not rely on the provisions of the Fifth Amendment to shield him from discovery in a civil case, when the actions he seeks to shield are not past actions for which he may be criminally prosecuted, but current acts of indirect contempt. Second, Armstrong has waived any claim of Fifth Amendment privilege concerning the outstanding discovery in this action.

In arguing that this matter should be stayed so long as he is subject to sanction for violation of the preliminary injunction, Armstrong relies on Pacers, Inc. v. Superior Court (1984) 162 Cal.App.3d 686, 208 Cal.Rptr. 743. In Pacers, defendants were sued in a civil action for assault and battery, and were under investigation by federal officials for criminal prosecution for the same underlying actions. The Court of Appeal, Fourth District, held that discovery in the civil action should be stayed pending the running of the statute of limitations for the alleged criminal acts.

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[5] The Judge issuing the injunction plainly did not consider it to be "mandatory," since he issued the OSC when Armstrong violated it. Nor did Judge Wayne consider it "mandatory," since she did not dissolve the OSC, but merely continued it for hearing until June 1, 1993.

Armstrong's case is far different. Here, the civil case charges that Armstrong violated the Settlement Agreement by certain specific acts. The threatened "criminal" prosecution is a contempt hearing, not for those actions alleged by the Amended Complaint, but for subsequent violations of this Court's Order. If Armstrong is placed in a difficult position, it is not because of actions which gave rise to simultaneous civil and criminal actions, but because he chose, after the civil action was underway, to engage in separate actions in violation of the Court's Order. Trial of the main action herein can thus easily proceed regardless of Armstrong's attempts to protect his contemptuous conduct from discovery.

Moreover, Armstrong is not entitled to further "difficult choices" concerning his testimony; this Court has already ordered him to answer in deposition the very questions for which he now proposes to claim the Fifth Amendment privilege. By failing to raise his Fifth Amendment privilege in a timely fashion, Armstrong has waived it. Brown v. Superior Court (1986) 180 Cal.App.3d 701, 226 Cal.Rptr. 10. In Brown, the defendants faced simultaneous civil and criminal prosecutions for assault and battery and conspiracy to commit murder. The civil plaintiff served written interrogatories on the defendants, many of which required self-incrimination. The defendants did not answer the interrogatories, and, on plaintiff's motion to compel, the trial judge ordered them answered without objection. The defendants answered with objections, claiming the Fifth Amendment privilege, and plaintiff moved for default. The trial court denied plaintiff's motion.

On plaintiff's petition for writ of mandate, the Court of Appeal, Second District, reversed, and ordered the trial court to grant plaintiff's default motion. In so holding, the Court of Appeal found that defendants had, by their disregard of the Code of Civil Procedure, waived their privilege:

> [D]efendants failed to claim the privilege when they had the legal standing and opportunity to do so, i.e., within the 30-day period provided by Code of Civil Procedure section 2030. Moreover, they never provided any grounds for relief from default under section 473 of the Code of Civil Procedure. They blatantly disregarded the rules for discovery set forth in the Code of Civil Procedure and the court orders of April and July 1985.
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> * * *
>
> Writing upon a relatively clean slate, we are persuaded to treat the privilege against self-incrimination no differently than the other privileges which are waived by a failure to make a timely objection to [discovery]. Defendants had ample opportunity to timely raise their Fifth Amendment objection and failed to do so, thereby waiving their privilege.

180 Cal.App.3d at 711 - 712, 226 Cal.Rptr. at 16.

Brown is directly on point here. In deposition, Gerry Armstrong refused to answer questions posed by plaintiff's counsel. Those questions all dealt with whether or not, while working in Greene's office since May, 1992, he had provided aid to claimants against any Church of Scientology. Plainly, if he had done so, he would have done so in contemptuous violation of Judge Sohigian's order. [See, Motion to Compel, pp. 5-8, and Separate Statement Thereto, Questions, 4-14 and 23-29.] Armstrong did not refuse to answer the questions based on a claim of Fifth Amendment privilege. Indeed, when he volunteered that he wished to do so, his counsel corrected him. [Ex. C.] C.C.P. §2025(m)(1) specifically provides that, "The protection of information from discovery on the ground that it is privileged . . . is waived unless a specific objection to its disclosure is timely made during the deposition." This was Armstrong's first timely opportunity to claim a Fifth Amendment privilege; he consciously chose not to do so.

Moreover, and giving Armstrong and his counsel every benefit, Armstrong had still another opportunity to persuade this Court that he was entitled to claim the privilege. After the OSC re: contempt was filed, after Armstrong and his counsel were on notice that the Court expected compliance with its Order, plaintiff filed a motion to compel responses to those very questions. Armstrong had every opportunity to respond to that motion by raising his new claim of Fifth Amendment privilege; whether he had already waived it by this time need not be decided by the Court because he failed to raise it. [Ex. F.] Armstrong's belated attempt to invoke the privilege when the same questions were posed to him on March 10 was therefore improper pursuant to Brown, and yet another violation of the discovery rules (for which plaintiff will seek appropriate sanctions when the transcript becomes available).

Armstrong's position, then, is this: he should be entitled to accept the proceeds of a Settlement Agreement, and then violate it. If a Court orders him to comply with the Agreement, he should be permitted to disregard the order, and contemptuously violate it until the Court of Appeal upholds the Court's order, all the while preventing plaintiff from obtaining any relief from the courts. And he should be able to achieve this wonderful result of immunity from the consequences of his actions simply by deliberately violating the Court's order, and then claiming a testimonial privilege. To state the proposition is to illustrate its absurdity. Fortunately, California law does not compel such an unjust result.

VI.

ARMSTRONG IS NOT ENTITLED TO THE ALTERNATIVE RELIEF HE SEEKS

In the end, it would appear that this motion was filed simply because Armstrong failed to file oppositions to the pending summary adjudication motions in a timely fashion. As demonstrated in the attached Declaration of Laurie J. Bartilson and proofs of service, the motions were filed and served in a timely fashion. Armstrong's counsel made no effort to contact plaintiff's counsel to seek a continuance or extension of time in which to file oppositions; had he done so, he might have saved himself, plaintiff's counsel and this Court untold hours of unnecessary work. Plaintiff is interested in having its motions heard and decided on their merits. Plaintiff is similarly interested in proceeding to trial in accordance with the trial date set by the Court. Armstrong's filing difficulties could likely have been accommodated through a little communication.[6] Now, however, Armstrong has effectively prevented plaintiff from obtaining a timely hearing on its motions should he receive a belated extension of time in which to file oppositions. He filed his request on the very day the oppositions were due. Pursuant to §437c(b), Armstrong is only entitled to an extension for "good cause shown." He has not provided the Court with good cause, beyond a claim that one of his lawyers is a busy solo practitioner. Despite the requirements of the CCP and the Local Rules, he made no effort to resolve his difficulties by consultation with opposing counsel, and he still has not so much as served plaintiff with a single proposed opposition. Under these circumstances, Armstrong is not entitled to the relief he requests.

VII.

CONCLUSION

Armstrong's motion is meritless, and brought for the sole purpose of delaying his time of reckoning before the Court. It is the latest in a series of delaying, maneuvering tactics that have bounced this cause from courtroom to courtroom, and even from courthouse to courthouse. This Court should end

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[6] Indeed, plaintiff's counsel has readily granted Armstrong's counsel extensions and continuations by stipulation. [Ex. K.]

Armstrong's machinations, deny Armstrong's motion, and permit this cause to move rapidly to and through final adjudication.

Dated: March 19, 1993

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By: ______________________
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

H:\ARMSTRON\STAYOPP

DECLARATION OF LAURIE J. BARTILSON

I, LAURIE J. BARTILSON, hereby declare:

1. I am a member of the law firm of Bowles & Moxon and am an attorney admitted to practice in the State of California. My firm represents plaintiff Church of Scientology International ("Church") in the instant case. I have personal knowledge of the matters specified in this declaration and, if called upon to testify on such matters, would and could do so competently.

2. Plaintiff timely filed and served three motions for summary adjudication in this matter, which request summary adjudication in plaintiff's favor of some of plaintiff's causes of action and two of Armstrong's cross-claims. Oppositions to those motions were due to be filed by Armstrong on March 17, 1993. I have not received any oppositions.

3. On December 31, 1992, the Honorable Ronald Sohigian issued an Order to Show Cause Re: Contempt based on the preliminary injunction which he had entered in this case. The OSC came on for hearing before the Honorable Diane Wayne on March 5, 1993. I was present at that hearing, which was recorded on audiotape. On March 18, 1993, I received a copy of the audiotape from the Court, and caused the tape to be transcribed. A true and correct copy of the transcription is attached hereto as Exhibit H. I anticipate that an official transcript will be available before the hearing on this motion. As soon as it is available, I will file it with the Court.

4. On March 10, 1993, I attempted to take the deposition of Gerald Armstrong in San Francisco, California. During the deposition, Mr. Armstrong refused, once again, to answer the many of the questions which this Court ordered him to answer in granting plaintiff's motion to compel on February 19, 1993. This time, Armstrong claimed that he refused to answer because the answers might incriminate him, and took the Fifth Amendment. While at the deposition, I contacted the Court's clerk and attempted to obtain a hearing by telephonic

conference to resolve the matter immediately. I was informed by the clerk that I would have to file a noticed motion, as the Court was conducting a jury trial.

5. On March 2 and March 3, 1993, I filed plaintiff's three motions for summary adjudication from my office in Los Angeles. On March 2, I sent two of the motions to San Francisco, by Federal Express, to the offices of my co-counsel, Andrew H. Wilson. Those motions were hand-served on Mr. Greene's office on March 3. They were also mail-served on Mr. Morantz, in Pacific Palisades. On March 3, the third motion for summary adjudication was hand-served on Mr. Morantz's office, and both mail-served on Mr. Greene's office and faxed to him on that date. True and correct copies of the proofs of service are attached to plaintiff's motion as Exhibit I, and were previously filed with the Court.

6. The summary adjudication motions were not filed on March 2 and 3 to inconvenience Armstrong's counsel, but because Armstrong and his counsel have so thoroughly delayed discovery in this matter that earlier filing was not feasible. Just a sampling of the delays which plaintiff has experienced at the hands of Armstrong and his counsel is demonstrated in paragraphs 7 - 15, _infra_.

7. Greene and Armstrong successfully prevented the adjudication of plaintiff's motion for preliminary injunction for _four_ _months_ by:

a. Moving _ex_ _parte_ for an extension one day before their opposing papers were due;

b. When that motion was denied, "excusing" the ruling judge by peremptory challenge;

c. Seeking and obtaining an extension from the new judge, by claiming the need to take depositions, which they never took; and

c. Requesting and obtaining a change of venue from their home county of Marin to Los Angeles Superior.

8. In March, 1992, Greene and Armstrong refused to appear for their

depositions, claiming that Armstrong and his attorney were "too busy." In April, 1992, they again refused to appear for deposition, this time claiming that they were not obligated to appear because the case was in the process of being transferred from Marin to Los Angeles. All told, Armstrong and his counsel managed to successfully delay and avoid their depositions for three months.

9. In May, 1992, Armstrong refused to permit the deposition of key out-of-state witness Michael Flynn to proceed while Mr. Flynn was in California, claiming that Armstrong's attorney, a solo practitioner, was too busy preparing for a 4-week jury trial.

10. In June, 1992, they again refused to produce Mr. Armstrong for deposition, claiming that Mr. Greene had a jury trial set for Sonoma County at the same time, and that co-counsel, Mr. Morantz, could not be available.

11. In July, 1992, they insisted on the postponement of three more of plaintiff's depositions, because Mr. Greene intended to be on vacation for three weeks.

12. In November, 1992, Armstrong sought and obtained a thirty-day extension of time in which to file his opening appellate brief, and obtained an extension to December 18.

13. In December, 1992, Armstrong sought and obtained a continuance of the hearing on plaintiff's demurrer and motion to strike Armstrong's cross-complaint, claiming that, thanks to the extension they obtained from the Court of Appeal, their opening brief was now due on or near the same date.

14. Although they obtained an extension from the Court of Appeal, they did not file their opening brief in December, and instead delayed until the Court of Appeal issued a notice requiring them to file on pain of dismissal. Their 91-page brief, filed on January 8, 1993, did not conform to the Court's rules and was rejected. Thereafter, they sought and obtained still another extension of time in which to file a shorter brief.

15. On February 19, this Court ordered Armstrong to, within twenty days, answer deposition questions which he had refused to answer, and produce documents. Despite the Court's clear order, Armstrong appeared for deposition, but refused to answer most of the questions posed, claiming a Fifth Amendment privilege, and has still not produced all of the documents which he was ordered to produce.

16. On February 2, 1993, Mr. Greene requested that plaintiff agree to continue the hearing on the Order to Show Cause re: Contempt, then scheduled for February 16, 1993. Even though the February 16 date had been chosen based on Mr. Greene's calendar, plaintiff agreed to the continuance, and the parties stipulated that the matter would be heard instead on March 2, 1993. I have repeatedly agreed to reschedule depositions according to Mr. Greene's requests (as noted above), and have provided him with stipulations to extend filing deadlines as well. See, e.g., Exhibit K.

17. Mr. Greene has never contacted me regarding any of the difficulties which he now claims in responding to plaintiff's motion for summary adjudication, nor has he contacted my co-counsel. The "notice" which he gave me prior to moving ex parte consisted of a letter indicating only that he intended to move the next day for a stay of all proceedings; it made no request for any extension, nor did it indicate that his motion for a stay would include such a request. Had Mr. Greene requested in a timely fashion that I agree to stipulate that he could have some additional time to file his oppositions, I would have exercised my best efforts to accommodate him. He has never asked.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 19th day of March, 1993, at Los Angeles, California.

Laurie J. Bartilson

Exhibit A

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable **Ronald M. Sohigian**, Judge
1

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if pre

Church of Scientology, International
vs.
Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

In this matter heretofore taken under submission on May 27, 1992, the court now makes the following ruling.

1 Plaintiff's legal remedies are inadequate insofar as the scope of relief ordered below is concerned, but not otherwise. CCP 526(4) and (5).

2 The threatened acts which are restrained by the order referred to below, but only those threatened acts, would do irreparable harm to plaintiff which could not be compensated by monetary damages. CCP 526(2).

3 On the basis of the instant record, there is a reasonable probability that plaintiff will prevail after trial of this case in the respects restrained by this order. CCP 526(1); cf., San Francisco Newspaper Printing Co., Inc. vs. Superior Court (Miller) (1985) 170 Cal. App. 3d 438.

4 Plaintiff is likely to suffer greater injury from denial of the preliminary injunction the terms of which are set out below than the injury which defendant is likely to suffer if it is granted. See Robbins vs. Superior Court (County of Sacramento) (1985) 38 Cal. 3d 199, 206.

5 The granting of a preliminary injunction in the terms set out below will preserve the status quo pending trial.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES 1320

Date: May 28, 1992
Honorable Ronald M. Sohigian, Judge
1a

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

6 Application for preliminary injunction is granted in part, in the following respects only.

Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of court from doing directly or indirectly any of the following:

> Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986 regarding such claim or regarding pressing, arbitrating, or litigating it.
>
> Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

The court does not intend by the foregoing to prohibit defendant Armstrong from: (a) being reasonably available for the service of subpoenas on him; (b) accepting service of subpoenas on him without physical resistance, obstructive tactics, or flight; (c) testifying fully and fairly in response to properly put questions either in deposition, at trial, or in other legal or arbitration proceedings; (d) properly reporting or disclosing to authorities criminal conduct of the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986; or (e) engaging in gainful employment rendering clerical or paralegal services not contrary to the terms and conditions of this order.

DEPT. 88

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable **Ronald M. Sohigian**, Judge
1b

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International
vs.
Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

The application for preliminary injunction is otherwise denied.

7 The restraints referred to in sec. 6, above, will become effective upon plaintiff's posting an undertaking in the sum of $70,000 pursuant to CCP 529(a) by 12:00 noon on June 5, 1992.

8 The restraints referred to in sec. 6, above, properly balance and accommodate the policies inherent in: (a) the protectable interests of the parties to this suit; (b) the protectable interests of the public at large; (c) the goal of attaining full and impartial justice through legitimate and properly informed civil and criminal judicial proceedings and arbitrations; (d) the gravity of interest involved in what the record demonstrates defendant might communicate in derogation of the contractual language; and (e) the reasonable interpretation of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986. The fair interpretation of all the cases cited by the parties indicates that this is the correct decisional process. The law appropriately favors settlement agreements. Obviously, one limitation on freedom of contract is "public policy"; in determining what the scope of the public policy limitation on the parties' rights to enforcement of their agreement in the specific factual context of this case, the court has weighed the factors referred to in the first sentence of this section. Litigants have a substantial range of contractual freedom, even to the extent of agreeing not to assert or exercise rights which they might otherwise have. The instant record shows that plaintiff was substantially compensated as an aspect of the agreement, and does not persuasively support defendant's claim of duress or that the issues involved in this preliminary injunction proceeding were precluded by any prior decision.

SUPERIOR COURT OF CALIFORNIA , COUNTY OF LOS ANGELES

Date: May 28, 1992
Honorable **Ronald M. Sohigian,** Judge
1c

M. Cervantes, Deputy Clerk
None (E.R.M.)

BC 052395

(Parties and Counsel checked if present)

Church of Scientology, International

vs.

Gerald Armstrong, et al.

Counsel For Plaintiff

Counsel For Defendant

No Appearances

NATURE OF PROCEEDINGS: RULING ON MATTER TAKEN UNDER SUBMISSION ON MAY 27, 1992

9 The court does not dispositively decide the underlying merits of the case except for this preliminary determination. CCP 526(1); Baypoint Mortgage Corp. vs. Crest Premium Real Estate etc. Trust (1985) 168 Cal. App. 3d 818, 823.

10 Plaintiff is ordered give written notice by mail by June 5, 1992, including in that written notice a statement regarding whether plaintiff has or has not posted the undertaking referred to in sec. 7, above, and attaching to that written notice evidence showing that the undertaking has been posted if that is the fact.

DATED: May 28, 1992.

RONALD M. SOHIGIAN

RONALD M. SOHIGIAN
Judge of the Superior Court

A copy of this minute order is sent to counsel via United States mail this date.

Exhibit B

Andrew H. Wilson
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CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 052395 EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE WHY GERALD ARMSTRONG SHOULD NOT BE HELD IN CONTEMPT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATIONS OF LAURIE BARTILSON AND KENDRICK L. MOXON AND SUPPORTING EXHIBITS DATE: December 31, 1992 TIME: 1:30 p.m. DEPT: 88 DISCOVERY CUT-OFF: None MOTION CUT-OFF: None TRIAL DATE: May 3, 1992

TO DEFENDANT AND GERALD ARMSTRONG AND HIS COUNSEL OF RECORD:

Notice is hereby given that on December 31, 1992 at 1:30 p.m., or as soon thereafter as the matter may be heard, in Department 88 of the above-entitled court, located at 111 North Hill Street, Los Angeles, California 90012, plaintiff Church of Scientology International ("Church") will move for an order from this Court directing defendant Gerald Armstrong ("Armstrong") to appear and to show cause why he should not be held in contempt of this Court and criminally sanctioned for such contempt. This application is made on the ground that Armstrong has knowingly violated this Court's May 28, 1992 preliminary injunction order by voluntarily assisting at least six persons litigating or otherwise pursuing claims against the Church, affiliated Churches of Scientology and/or Church staff. All of the targeted Churches of Scientology and staff are included within the group of protected persons referenced in the May 28, 1992 Order. The six persons who Armstrong has admittedly assisted since May 28, 1992 include Richard and Vicki Aznaran. Armstrong's earlier assistance to the Aznarans was central to the Church's successful preliminary injunction motion in this case.

While the Church has attempted to obtain, informally, Armstrong's compliance with this Court's May 28, 1992 Order during the past six months, such efforts have been repeatedly rebuffed by Armstrong. As such, the Church comes to no alternative but to submit this application. Coupled with his post-May 28, 1992 pronouncements that he has no intention of complying with any such order of the Court, Armstrong is clearly flaunting the authority of this Court in a manner that should be criminally sanctioned by fine and/or imprisonment under Code of Civil Procedure § 1218. If this Court does enter a finding of such contempt pursuant to Code of Civil Procedure § 1209, et seq., the Church submits that Armstrong's actions also warrant referral to the District Attorney for misdemeanor prosecution under Penal Code § 166(4).

Defendant Armstrong has been notified of this Application pursuant to Law and Discovery Policy Manual Para. 261, *et seq*. [Declaration of Kendrick L. Moxon.]

This application is based upon the attached memorandum of points and authorities, the attached Declaration of Laurie Bartilson and other supporting exhibits, the pleadings and records on file in this case and such further evidence and argument as may be allowed at the hearing on this application.

Dated: December 31, 1992

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By:
Laurie J. Bartilson

ATTORNEYS FOR PLAINTIFF
CHURCH OF SCIENTOLOGY
INTERNATIONAL

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Plaintiff Church of Scientology International ("the Church") seeks an order from this Court that will halt defendant Armstrong's repeated, deliberate violations of the May 28, 1992 preliminary injunction order ("May 28 Order"). The May 28 Order bars Armstrong from voluntarily assisting persons who are, inter alia, litigating or intending to litigate against the Church, its affiliated Churches of Scientology and their staffs. From post-injunction discovery in this case, a bizarre letter written by Armstrong to plaintiff's counsel and copied to 35 others, and, mostly recently, the receipt by plaintiff's counsel of a videotaped interview of Armstrong with at least one active anti-Church litigant, it is clear that Armstrong -- true to his June 24, 1992 sworn assertion that he would never comply with the May 28 Order -- has embarked on a willful, knowing and defiant campaign to violate that Order by aiding persons preparing prospective lawsuits or actually litigating against the Church, including, again, Richard and Vicki Aznaran. Indeed, Armstrong has sworn under oath that he has no intention of complying with this Court's order; every attempt made by plaintiff to obtain compliance has been met with derision, defiance and concocted claims of "privilege." It is for these actions, enumerated in the supporting declaration of Laurie J. Bartilson, that Armstrong should be made to show cause why he should not be found to be in criminal contempt of the May 28 Order.

///

II.

FACTUAL STATEMENT

A. The May 28 Order and Armstrong's Sworn Intention to Disregard It

The May 28 Order clearly states its prohibitions against Armstrong's voluntary assistance of claimants adverse to the Church:

> Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of this court from doing directly or indirectly any of the following:
>
> Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1. of the "Mutual Release of All Claims and Settlement Agreement" of December 1986 regarding such claim or regarding pressing, arbitrating or litigating it.
>
> Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

[Exhibit A, May 28 Order, p. 2, ¶ 6.] These particular prohibitions against Armstrong voluntarily assisting litigants and other claimants were based on paragraph 7G of the December, 1986 "Mutual Release of All Claims and Settlement Agreement" ("Settlement Agreement") referenced in the Order,[1] which this

---

[1] Paragraph 7G of the Settlement Agreement states:

G. Plaintiff [Armstrong] agrees that he will not voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations, individuals, or entities listed in Paragraph 1 above. Plaintiff also agrees that he will not cooperate in any manner with any organization aligned against Scientology. [Exhibit B, Settlement Agreement.]

Court founa the Church held a reasonable probability of enforcing after trial. [Id., p. 1, ¶ 3.[2]]

Less than a month after the May 28 Order was issued, Armstrong asserted under oath in deposition that he would not honor its terms:[3]

---

[2] As to the persons protected by this prohibition against assistance of adversaries, paragraph 1 of the Settlement Agreement states, in relevant part: ". . .the officers, agents, representative employees, volunteers, directors, successors, assigns, and legal counsel of [Church of Scientology International] as well as the Church of Scientology California, its officers, agents, representatives, employees, volunteers, directors, successors, assigned and legal counsel; Religious Technology Center, its officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; all Scientology and Scientology affiliated organizations and entities and their officers, agents, representatives, employees, volunteers, directors, successors, assigns and legal counsel; L. Ron Hubbard, his heirs, beneficiaries, Estate and its executor; Author's Family Trust, its beneficiaries and its trustee; and Mary Sue Hubbard ..."

[3] Armstrong's intentional disregard for the court's orders in this case was also demonstrated by his actions subsequent to the March 5, 1992 issuance the temporary restraining order by Judge Dufficy of the Marin County Superior Court ("Armstrong TRO"). As the court's record shows, the Armstrong TRO restrained him, inter alia, from disclosing his experiences to third parties, including the press, as well as from assisting actual and prospective anti-Church litigants. However, through the March 12, 1992 deposition testimony in the matter of Hunziker, et al. v. Applied Materials, et al., Santa Clara County Superior Court No. 692629, Armstrong revealed that he was actively assisting the plaintiffs in that case in violation of the Armstrong TRO with negative materials on Scientology [Exhibit C, March 12 deposition of Gerald Armstrong in Hunziker, pp. 254-256, 323-330] and, in his October 7, 1992 deposition in the instant case, admitted that he had: (a) had discussions with Time Magazine reporter Richard Behar regarding the latter's litigation against the Church in the matter of Church of Scientology International v. Time Warner, Inc., Richard Behar, et al., U.S. District Court, Southern District of New York, No. 92 Civ. 3024(PKL); and (b) participated in the issuance of a press release critical of the Church and the Armstrong TRO on March 19, 1992. [Exhibit D, October 7, 1992 Deposition of Gerald Armstrong, pp. 338-339, 386-387; Exhibit E, press release.] As this Court's record also shows, on March 27, 1992, Judge Dufficy extended the Armstrong TRO to May 11, 1992. Nevertheless, Armstrong continued to violate that restraining

(continued...)

> I have absolutely no intention of honoring that settlement agreement. I cannot. I cannot logically. I cannot ethically. I cannot morally. I cannot psychically. I cannot philosophically. I cannot spiritually. I cannot in any way. And it is firmly my intention to not honor it.
>
> Q. No matter what a court says?
>
> A. No court can order it. They're going to have to kill me.

[Exhibit F, June 24, 1992 deposition of Gerald Armstrong, p. 124; Declaration of Laurie J. Bartilson, ¶ 4.[4]]

Armstrong's intention to ignore the May 28 Order was reiterated in a letter sent by Armstrong to plaintiff's counsel, dated December 22, 1992. [Exhibit G.] In that letter, which is copied to his own attorneys but not sent by them,[5] Armstrong threatens that, if he is not paid $500,000 and this lawsuit dismissed, he intends to travel voluntarily to South Africa to testify against a church of Scientology, give interviews to the media, and voluntarily assist anyone and everyone opposing Churches that he can locate. [Id., pp. 3, 4, 6, 7, 8.] Expressing

---

[3](...continued) order, conducting post-extension hearing interviews with the press on March 27, 1992 (Don Knapp of CNN), in April, 1992 (William Horne of American Lawyer Magazine) and, possibly, with Behar. [Exhibit D, Armstrong Deposition, pp. 342-344, 348-355, 386-387.]

[4] Similarly, Armstrong has confirmed that he indicated to Los Angeles Times reporter Robert Welkos his, Armstrong's, intention not to comply with the May 28 Order. [Exhibit D, October 7, 1992 Armstrong Deposition, pp. 378-379; Declaration of Laurie J. Bartilson, ¶ 5.]

[5] In what can only be described as deliberate harassment, Armstrong also sent copies of the letter to 35 individuals and groups, including anti-Church litigants, such as Vicki and Richard Aznaran, Larry Wollersheim and Joseph Yanny, and lawyers who represent clients in actions brought against one of more churches, including Toby Plevin, John Elstead, and Dan Leipold.

the viewpoint that the May 28 Order places no restrictions whatsoever on his conduct, Armstrong states:

> I consider myself free to do anything anyone can, except testify absent a subpoena. Much of what I am permitted to do I am going to do. . . .
>
> I will continue to associate with and befriend all those people I consider you attack unjustly and senselessly. I will make my knowledge and support available to the Cult Awareness Network, a group of people of good will you vilify, in all the litigation you have fomented against them[6]. . . . I will even make my knowledge and support available to entities like Time and people like Rich Behar in their defenses from your attacks.[7]

[Exhibit G, p. 3.] In that same letter, Armstrong makes plain the personal contempt which he has for a Court which would rule against him:

> There is also, as mentioned above, the fact that in order to defend myself from your attacks and to fund the defense of the litigation you have fomented I must speak and must publish. I'm sure you understand that I remain completely confident that no court, other than the odd one your mercenaries are able to compromise with bucks, babes or bull, will order me not to defend myself.

[Id. p. 5].

B. Armstrong's Contemptuous Violation of The May 28 Order

Since the May 28 Order, Armstrong has defiantly aided at least six claimants and litigants that fall within the above quoted prohibitions. That provision of voluntary assistance has included the following:

---

[6] The Cult Awareness Network is an anti-religious group that advocates the kidnapping and forcible "deprogramming" of individuals belonging to religions which they have identified as "cults." While the Church is not presently suing the Cult Awareness Network in any litigation, the president of the Cult Awareness Network, Cynthia Kisser, has initiated an action against the Church and its president, Heber Jentzsch. [Bartilson Dec., ¶ 17.]

[7] Behar is the author of a Time cover story concerning the Church which ran in May, 1991. The Church is presently engaged in a lawsuit against Time and Behar for defamation. [Bartilson Dec., ¶ 18]

1. Vicki and Richard Aznaran

As initially raised in the Church's February 4, 1992 preliminary injunction motion in this case, Armstrong continues to be employed as a paralegal at the law offices of his counsel Ford Greene. [Exhibit H, July 22, 1992 Deposition of Gerald Armstrong, pp. 186-189; Bartilson Dec., ¶ 6]; see also, February 4, 1992 Memorandum of Points and Authorities in Support of Plaintiff's Motion for Preliminary Injunction for Breach of Contract ("Injunction Memorandum"), pp. 2-3.

A central point raised in the Church's Injunction Memorandum was Armstrong's assistance via Ford Greene to anti-Church litigants Richard and Vicki Aznaran. Id. It came to Church counsel's attention in early July, 1992 that Mr. Greene, after a hiatus, was again representing the Aznarans in the matter of Vicki Aznaran and Richard Aznaran v. Church of Scientology International, et al., U.S. District Court, Central District of California No. CV-88-1786-JMI(Ex). Consequently, a letter was sent on July 7, 1992 seeking Armstrong's and Greene's undertaking that Armstrong would not violate the May 28 Order by Armstrong's assistance in the Aznarans' case. [Exhibit I, July 7, 1992 Bartilson letter; Bartilson Dec., ¶ 7.] In a July 11, 1992 response, Mr. Greene declined to make any such assurances.

[Exhibit J, July 11, 1992 Greene letter; Bartilson Dec., ¶ 8.[8]] However, as Greene's paralegal, Armstrong has, since Greene's July 11 letter, admitted to "broadly discussing" with the Aznarans matters concerning their case against the Church and has assisted in the relay of communications between the Aznarans and Greene. [Exhibit D, October 8 Armstrong Deposition, pp. 448-451.] [See also, Exhibit K, July 18, 1992 Bartilson letter documenting Armstrong's direct contact relating to the Aznaran case and requesting again that he cease and desist; Exhibit L, July 30, 1992 proofs of service executed by Armstrong in the Aznaran case; Bartilson Dec., ¶¶ 8-11.] While his counsel has raised work product and attorney-client communications objections to disclosing the content of Armstrong's communications with the Aznarans [see footnote 7 and Exhibit D, pp. 448-451; Exhibit J, Greene's July 11, 1992 letter], Armstrong's admissions of assistance are ample evidence of his knowing violation of the May 28 Order.

2. Tillie Good, Denise Cantin and Ed Roberts

Moreover, Armstrong has admitted providing assistance through Greene to three other potential litigants pursuing claims against Church entities that fall within the scope of the May 28

---

[8] Mr. Greene's letter was an early indication of the manner in which he and Armstrong would attempt to avoid compliance with the May 28 Order, first disingenuously labelling it "somewhat cryptic and difficult to enforce" and then claiming that confirmation of whether or not Armstrong was violating that order as Greene's paralegal invaded Greene's clients' attorney work product and confidential communications privileges. Id. However, as shown by Armstrong's subsequent actions and admissions, there is no doubt that Armstrong has used his paralegal position in Mr. Greene's office to engage in repeated violations of the May 28 order.

Order: (a) Tillie Good; (b) Denise Cantin; and (c) Ed Roberts. [Exhibit D, October 8 Armstrong Deposition, pp. 451-458; Exhibit M, July 19, 1992 demand letter regarding Tillie Hanna Good; Exhibit N, July 2, 1992 demand letter regarding Denise Cantin; Exhibit O, September 4, 1992 demand letter regarding Ed Roberts; Bartilson Dec., ¶ 12.] While Mr. Greene again foreclosed inquiry into the specifics of Armstrong's assistance in these cases [Exhibit C at 451-458], Armstrong did admit that he had met with and interviewed Mr. Roberts concerning the latter's Church dispute and has spoken with him some seven times since then. [Id. at 455-457.]

Indeed, Armstrong's assistance to Mr. Roberts is apparently independent of any assistance which Armstrong provides to Mr. Greene. In his December 22 letter, Armstrong asserted that he "is the only person in the world willing to help Mr. Roberts against your organization." [Exhibit G, p. 7.] In that letter, Armstrong includes the payment of an unspecified amount to Mr. Roberts as a "condition" to the ending of Armstrong's campaign of harassment against the Church. [Id. p. 6-7.]

As with his assistance to the Aznarans, Armstrong's work with these three litigants violates the letter and intent of the May 28 Order.

3. Jerry Whitfield

In addition, the Church has just learned that Armstrong engaged in a lengthy videotaped interview on November 6, 1992 concerning his purported Church experiences with anti-Church litigant Jerry Whitfield and others. [Exhibit P, transcript of November 6, 1992 interview at convention of the Cult Awareness

Network; Exhibit Q, videotape thereof; Bartilson Dec., ¶ 21.] Whitfield, a self-proclaimed "specialist" in the "deprogramming" of Church of Scientology parishioners, is currently a defendant in a false imprisonment and false arrest suit brought by Church staff member Angel Casillas, Angel Casillas v. Jerry Whitfield, Hanna Whitfield and Does 1-25, Los Angeles Municipal Court Case No. 91K49349.

The November 6 interview -- in which Armstrong admits his actions are in violation of the May 28 order[9] -- demonstrates conclusively that Armstrong knowingly has chosen to disregard and flaunt the Preliminary Injunction issued by this Court. In supplying Whitfield with a video tape for Whitfield's use in forcible deprogrammings to force unwilling Scientologists to renounce their faith and for possible use in the Casillas case, Armstrong has once again directly and voluntarily supported an adverse litigant to the Church. Indeed, the making of the video tape by Armstrong at all is another deliberate violation of yet another provision of the Settlement Agreement itself, as well as a violation of the preliminary injunction. In Paragraph 6(D) of the Agreement, Armstrong agreed, inter alia,

> [N]ever to create or publish or attempt to publish, and/or assist another to create for publication by

---

[9] While again proclaiming that he will never comply with the order, Armstrong acknowledges that the interview itself is in violation: "I cannot, except pursuant to a subpoena, assist someone intending to file a claim or pressing a claim against the organization. Now then we are appealing even that narrow ruling, because that's unenforceable because if you construe that my ... that this video could possibly indirectly help someone in the future, I can't do this. And not only that but if you consider that my existence indirectly or directly helps someone, then I'll oblige to take my own life. In other words I must stop breathing." Exhibit P, November 6 interview transcript, p. 31.

> means of magazine, article, book or other similar form, any writing or to broadcast of to assist another to create, write, film or video tape or audio tape any show, program or movie, or to grant interviews or discuss with others, concerning their experiences with the Church of Scientology, or concerning their personal or indirectly acquired knowledge or information concerning the Church of Scientology, L. Ron Hubbard or any of the organizations, individuals and entities listed in Paragraph 1 above. [Armstrong] further agrees that he will maintain strict confidentiality and silence with respect to his experiences with the Church of Scientology and any knowledge or information he may have concerning the Church of Scientology, L. Ron Hubbard, or any of the organizations, individuals and entities listed in Paragraph 1 above. . . .

Armstrong's production, with Whitfield, of a videotaped interview which purports to discuss both his and Whitfield's experiences with the Church, and which was created to be shown by Whitfield to victims he hopes to "deprogram" from the Scientology faith, despite the Agreement, despite the May 28 Order, and despite repeated notice from counsel for plaintiff that plaintiff intended to enforce both the Agreement and the May 28 Order demonstrate most eloquently the contempt which Armstrong has for the legal process, plaintiff's rights, and this Court. His defiance is not accidental or a minor misstep: it is deliberate, flagrant, defiant contempt. If ever a case cried out for the issuance of an order to show cause, this is that case.

III.

DISCUSSION

The Church seeks an order to show cause why Armstrong should not be held in criminal contempt of the May 28 Order.[10] As embodied in Code of Civil Procedure § 1209 et seq., the Court has the power to punish acts, such as Armstrong's, which impede and obstruct the discharge of its duties. See, Morelli v. Superior Court (1969) 1 Cal.3d 328, 333, 82 Cal.Rptr. 375 (criminal contempt proceedings arising out of a civil action are aimed at the vindication of the authority of the court).

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[10] The Church does not seek a civil contempt of the May 28 Order as coercive confinement would, at best, result in Armstrong's "promise" not to violate that order, clearly a meaningless act in light of Armstrong's demonstrable lack of (continued...)

Violations of court orders constitute contempt. This Court has inherent power to enforce execution of its equity decrees. Brown v. Brown (1971) 22 Cal.App.3d 82, 84, 99 Cal.Rptr. 311 (same). Moreover, Code of Civil Procedure § 1209(a) specifically provides, in relevant part:

> [T]he following acts or omissions in respect to a court of justice, or proceedings therein, are contempts of the authority of the court:
>
> . . .
>
> 5. Disobedience of any lawful . . . order . . . of the court.

See also, Reliable Enterprises, Inc. v. Superior Court (1984) 158 Cal.App.3d 604, 204 Cal.Rptr. 786 (criminal contempt adjudication for violation of preliminary injunction upheld); Pacific Telephone and Telegraph Co. v. Superior Court (1968) 265 Cal.App.2d 370, 72 Cal.Rptr. 177 (Section 1209 contempt proceedings are special proceedings, criminal in character and intended to implement the inherent power of the court to enforce its lawful orders); Vanderstok v. Bank of America (1972) 29 Cal.App.3d 731, 734, 105 Cal.Rptr. 699 (contempt proceeding is a proper process for enforcement of an injunction order).

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[10] (...continued) credibility on undertakings to honor his agreements.

In order to establish such an indirect contempt committed out of the immediate presence of the court, the moving party must demonstrate by sworn statement facts constituting the violation of the court's order. Code of Civil Procedure § 1211. The moving party's affidavit or declaration "need only make a prima* facie showing of the elements of contempt. Those elements are that the court made a lawful order; the person cited for contempt had knowledge or notice of the order; and the person was able to comply, yet willfully disobeyed the order." Crawford v. W.C.A.B.. (1989) 213 Cal.App.3d 156, 169, 259 Cal.Rptr. 414, 422-423.

The Church, through the accompanying declaration of Laurie J. Bartilson, has met each of these requirements. Present at the depositions in which Armstrong made the admissions specified in Section II, supra, the recipient of the phone call and proofs of service Armstrong effected in aid of the Aznaran's case, and the recipient of Armstrong's December 22 letter, Ms. Bartilson establishes through her declaration: (a) Issuance of the valid May 28 Order; (b) Notice to Armstrong of the May 28 Order (through notice to his attorneys, in the manner authorized by the Court, on June 5, 1992) [Bartilson Dec., ¶ 3 and Exhibit S]; (c) Armstrong's knowledge of the May 28 Order (through his statements that he was aware of but would never comply with such order) [Bartilson Dec., ¶¶ 4, 5, 9, 10 and 13]; (d) Armstrong's ability to have complied with such order (through his actions of assistance to anti-Church litigants, Armstrong is just as able to desist from such actions) [Bartilson Dec., ¶¶ 4, 5, 9, 11, 12 and 13]; and (e) Armstrong's willful disobedience of the subject order (through his refusal to cease and desist from the prohibited assistance after direct notice and demand by Church counsel) [Bartilson Dec., ¶¶ 4, 5, 9, 11, 12, 13 and 14.]

Accordingly, Armstrong should be ordered to Show Cause why he should not be held in criminal contempt of this Court, with punishment in the form of fine not to exceed $1,000.00 and jail time not to exceed five days as this Court sees fit. Code of Civil Procedure § 1218. The Court should exercise all of its available powers to impress upon Armstrong that its orders mean what they say and will be enforced, despite the intransigence of an enjoined party. Indeed, incarceration is an unusually viable vehicle for impressing upon Armstrong the import of his obligations, inasmuch as Armstrong has publicly disavowed money as a meaningful or valuable commodity. [Exhibit R.] Moreover, with Armstrong expressing his "to the grave" defiance of the May 28 Order, the Church submits that upon a finding of contempt under Code of Civil Procedure § 1209, et seq., referral to the District Attorney for misdemeanor prosecution under Penal Code § 166(4) is also appropriate to address such a defiant, willful challenge to the Court's authority.

IV.

CONCLUSION

For the foregoing reasons, plaintiff Church respectfully requests that the Court order that Armstrong show cause why he should not be held in contempt of court and why plaintiff Church

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should not be awarded its costs, including attorneys' fees, in bringing this motion.

Dated: December 31, 1992

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By:
Laurie J. Bartilson

ATTORNEYS FOR PLAINTIFF
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Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation, Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	CASE NO. BC 052395 DECLARATION OF LAURIE J. BARTILSON IN SUPPORT OF APPLICATION FOR ORDER TO SHOW CAUSE WHY GERALD ARMSTRONG SHOULD NOT BE HELD IN CONTEMPT DATE: December 31, 1992 TIME: 1:30 p.m. DEPT: 88 DISCOVERY CUT-OFF: None MOTION CUT-OFF: None TRIAL DATE: May 3, 1992

I, LAURIE J. BARTILSON, hereby declare:

1. I am a member of the law firm of Bowles & Moxon and am an attorney admitted to practice in the State of California. My firm represents plaintiff Church of Scientology International ("Church") in the instant case. I am submitting this declaration in support of the Church's Motion for Order to Show Cause Why Gerald Armstrong Should Not Be Held in Contempt ("Motion") and

said Motion's accompanying memorandum of points and authorities ("Memorandum"). I have personal knowledge of the matters specified in this declaration and, if called upon to testify on such matters, would and could do so competently.

2. On May 28, 1992, this Court issued a preliminary injunction order ("May 28 Order") in this case which stated, in relevant part:

> Defendant Gerald Armstrong, his agents, and persons acting in concert or conspiracy with him (excluding attorneys at law who are not said defendant's agents or retained by him) are restrained and enjoined during the pendency of this suit pending further order of this court from doing directly or indirectly any of the following:
>
> Voluntarily assisting any person (not a governmental organ or entity) intending to make, intending to press, intending to arbitrate, or intending to litigate a claim against the persons referred to in sec. 1. of the "Mutual Release of All Claims and Settlement Agreement" of December 1986 regarding such claim or regarding pressing, arbitrating or litigating it.
>
> Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating a claim against the persons referred to in sec. 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986.

A true and correct copy of the May 28 Order which I received from the Court is attached as Exhibit A in support of the Motion.

3. On June 5, 1992, I gave notice to Armstrong's lawyers, Ford Greene and Paul Morantz, of the May 28 Order. A true and correct copy of the Notice with exhibits and proofs of service is attached as Exhibit S in support of the Motion.

4. At a deposition of Gerald Armstrong ("Armstrong") in this case on June 24, 1992, he and my co-counsel, Andrew Wilson, had the following exchange regarding the December 1986 "Mutual

Release and Settlement Agreement" between the Church and Armstrong ("Settlement Agreement") and the May 28 Order:

> A. . . . I have absolutely no intention of honoring that settlement agreement. I cannot. I cannot logically. I cannot ethically. I cannot morally. I cannot psychically. I cannot philosophically. I cannot spiritually. I cannot in any way. And it is firmly my intention to not honor it.
>
> Q. No matter what a court says?
>
> A. No court can order it. They're going to have to kill me.

A true and correct copy of the relevant page of the transcript of that deposition, p. 124, accurately reflecting the statements of Armstrong and myself, is attached as Exhibit F to the Motion.

5. At a continuation of Armstrong's deposition in this case on October 7, 1992, Armstrong and I had the following exchange regarding the May 28 Order:

> Q. When was the next time you spoke to Mr. Welkos or Mr. Sappell?
>
> A. Around the time of the Sohigian ruling.
>
> Q. This is another telephone conversation?
>
> A. In that I only met Mr. Welkos on that one occasion, yes.
>
> Q. I apologize. You said that, and I forgot. And this was a conversation with Mr. Welkos?
>
> A. Yes
>
> Q. Did you call him, or did he call you?
>
> A. I believe I originated the conversation.
>
> Q. What did he say to you, and what did you say to him, during that conversation?
>
> A. I believe I advised him of the Sohigian ruling.

> Q. Did you discuss anything else with him?
>
> A. I think it was -- That's all that I recall being the subject of the discussion at that time.
>
> Q. Did you tell him that as a result of the Sohigian ruling, you now felt that you were more free to do things that you had been constrained about doing before?
>
> A. No, I never said that. Because I did not feel I was constrained before. But rather that by specifically denying the injunction as to all of those things which the organization sought in the preliminary injunction, that I was free from the potential of an injunction.

A true and correct copy of the relevant pages of the transcript of that deposition, pp. 378-379, accurately reflecting the statements of Armstrong and myself, is attached as part of Exhibit D to the Motion. On behalf of my client the Church, I allege that the statements made by Armstrong under oath as quoted in this paragraph and the paragraph immediately preceding in this declaration are acknowledgements by Armstrong of his awareness of the May 28 Order, his ability to act in compliance of such order and his intention to wilfully disobey its terms.

6. At a continuation of Armstrong's deposition in this case on July 22, 1992, he acknowledged to me under oath that he continued to be employed by Ford Greene as a paralegal. A true and correct copy of the relevant pages of the transcript of that deposition, pp. 186-189, accurately reflecting the statements of Armstrong and myself, is attached as Exhibit H to the Motion.

7. On July 7, 1992, I received in the mail a notice of association from Ford Greene announcing that he again represented Vicki and Richard Aznaran in the matter of Vicki Aznaran and Richard Aznaran v. Church of Scientology International, et al.

U.S. District Court, Central District of California No. CV-88-1786-JMI(Ex) ("Aznaran v. Church"). On that day, I sent Mr. Greene a letter by telecopier and first class mail. A true and correct copy of that letter is attached as Exhibit I to the Motion. In that letter, I requested that Mr. Greene inform me of the steps that had been and that would be taken to ensure that Armstrong did not violate the terms of the May 28 Order, in particular the prohibition that prevented Armstrong from assisting the Aznarans in their case.

8. On or about July 12, 1992, I received a letter from Mr. Greene, dated July 11, 1992, which responded to the above referenced letter of July 7, 1992. A true and correct copy of that letter is attached as Exhibit J to the Motion. In that letter, Mr. Greene pointedly declined to provide any specific assurances that Armstrong would not assist the Aznarans or any other anti-Church litigant or claimant in violation of the above-cited terms of the May 28 Order. Instead, he characterized the May 28 Order as "somewhat cryptic and difficult to enforce" and that as to Armstrong's compliance with said order, I "would simply have to take [Mr. Greene's] word for it."

9. In July, 1992, following my receipt of a copy of a ruling of Judge Ideman in Aznaran v. Church transferring that case from the Central District of California to the U.S. District Court in Dallas, Texas, I received a telephone call from Armstrong in which he stated that he was calling from Mr. Greene's office and that he needed to receive immediately by fax such transfer ruling of Judge Ideman. I told Armstrong that the May 28 Order prohibited him from assisting the Aznarans or any

other litigants against the Church. He replied that he was trying to help the Aznarans. On behalf of my client the Church, I allege that the statements made by Armstrong as relayed in this paragraph are acknowledgements by Armstrong of his awareness of the May 28 Order, his ability to act in compliance of such order and his intention to wilfully disobey its terms.

10. On July 18, 1992, I sent another letter to Mr. Greene by telecopier and first class mail, responding to his July 11, 1992 letter, accurately describing my above referenced July, 1992 conversation with Armstrong and reiterating that Armstrong was required to immediately cease all work for the Aznarans and to cease all actions in violation of the May 28 Order. A true and correct copy of that letter is attached as Exhibit K to the Motion.

11. I received no response to my July 18, 1992 letter from Mr. Greene. However, on or about August 1, 1992, I received two proofs of service for Mr. Greene's pleadings in the Aznaran v. Church case, each of which was executed by Armstrong. True and correct copies of those proofs of service are attached as Exhibit L to the Motion. On behalf of my client the Church, I allege that the actions taken by Armstrong as relayed in this paragraph are acknowledgements by Armstrong of his ability to act in compliance of the May 28 Order and his intention to wilfully disobey its terms.

12. In the continuation of Armstrong's deposition in this case on October 7 and 8, 1992, during which I further examined Armstrong, he made several additional admissions that I allege indicate his awareness of the May 28 Order, his ability to act in

compliance of such order and his intention to wilfully disobey its terms. These admissions include Armstrong's statements that he broadly discussed with the Aznarans matters relating to their case against the Church, that he assisted in the relay of communications between the Aznarans and Mr. Greene and that he was assisting three other persons, Tillie Good, Denise Cantin and Ed Roberts, each of whom is making claims, through Mr. Greene's office, against Churches of Scientology protected by the May 28 Order. A true and correct copy of the relevant pages of the transcript of this deposition, pp. 448-458, accurately reflecting the statements of Armstrong, Mr. Greene and myself, is attached as part of Exhibit D to the Motion. True and correct copies of Mr. Greene's demand letters against various Churches of Scientology on behalf of Ms. Good, Ms. Cantin and Mr. Roberts received by me and/or my firm are attached as Exhibits M, N and O respectively to the Motion.

13. On December 26, 1992, I received by U.S. mail a letter signed by Gerald Armstrong, dated December 22, 1992, and addressed to "David Miscavige and all other individuals who participate in the control of Scientology, C/O Laurie J. Bartilson, Esquire" ("December 22 Letter"). A true and correct copy of the December 22 Letter is attached to the moving papers as Exhibit G.

14. In what can only be described as deliberate harassment, Armstrong also sent copies of the letter to 35 individuals and groups, including anti-Church litigants, such as Vicki and Richard Aznaran, Larry Wollersheim and Joseph Yanny, and lawyers who represent clients in actions brought against one of more

churches, including Toby Plevin, John Elstead, and Dan Leipold.

15. Armstrong spends the bulk of the December 22 Letter vilifying the Church and its members, and threatening further breaches of the settlement agreement, and violations of the preliminary injunction, if his demands are not met. Although Armstrong has publicly disavowed any interest in money, he insists that the Church pay him $500,000 for his "legal fees and costs," "cancel" the settlement agreement, and pay unspecified amounts of money to other anti-Church litigants if the Church wishes to avoid Armstrong's threatened violations.

16. Specifically, Armstrong threatens that, if his demands are not met, that he will travel voluntarily to South Africa to testify against a church of Scientology, give interviews to the media, and voluntarily assist anyone and everyone opposing Churches that he can locate. [Id. pp. 3, 4, 6, 7, 8] Expressing the viewpoint that the May 28 Order places no restrictions whatsoever on his conduct, Armstrong states,

> I consider myself free to do anything anyone can, except testify absent a subpoena. Much of what I am permitted to do I am going to do. . . .
>
> I will continue to associate with and befriend all those people I consider you attack unjustly and senselessly. I will make my knowledge and support available to the Cult Awareness Network, a group of people of good will you vilify, in all the litigation you have fomented against them. . . . I will even make my knowledge and support available to entities like Time and people like Rich Behar in their defenses from your attacks.

[Exhibit G, p. 3].

17. The Cult Awareness Network is an anti-religious group that advocates the kidnapping and forcible "deprogramming" of individuals belonging to religions which they have identified as

"cults." While the Church is not presently suing the Cult Awareness Network in any litigation, the president of the Cult Awareness Network, Cynthia Kisser, has initiated an action against the Church and its president, Heber Jentzsch.

18. Richard Behar is the author of a Time cover story concerning the Church which ran in May, 1991. The Church is presently engaged in a lawsuit against Time and Behar for defamation.

19. In the December 22 Letter, Armstrong also makes plain the personal contempt which he has for a Court which would rule against him:

> There is also, as mentioned above, the fact that in order to defend myself from your attacks and to fund the defense of the litigation you have fomented I must speak and must publish. I'm sure you understand that I remain completely confident that no court, other than the odd one your mercenaries are able to compromise with bucks, babes or bull, will order me not to defend myself.

[Id. p. 5].

20. These recent pronouncements by Armstrong make plain that nothing short of a criminal contempt order is likely to end Armstrong's misconduct.

21. On December 30, 1992, I received a videotape identified by the initial speaker as a November 6, 1992 interview of Armstrong. Jerry Whitfield and others participated in such interview which, on information and belief, took place at the Los Angeles convention in early November, 1992 of the so-called "Cult Awareness Network" ("CAN"). A true and accurate copy of the video tape is attached and lodged as Exhibit Q to the Motion. A true and accurate transcript of the conversation between

Armstrong, Mr. Whitfield and others as reflected on said videotape is attached as Exhibit P to the Motion. During this recorded interview, Armstrong makes the following statement:

> . . . I cannot, except pursuant to a subpoena, assist someone intending to file a claim or pressing a claim against the organization. Now then we are appealing even that narrow ruling, because that's unenforceable because if you construe that my ... that this video could possibly indirectly help someone in the future, I can't do this. And not only that but if you consider that my existence indirectly or directly helps someone, then I'll oblige to take my own life. In other words, I must stop breathing. It's unenforceable. I feel I am completely at liberty to associate with whomever I want, to talk to whomever I want, and I act and live that way. And that is in part why I am here at this event now, why I came to the CAN conference.

Exhibit P, p. 34.

On behalf of my client the Church, I allege that the statements made by Armstrong as relayed in this paragraph are further acknowledgements by Armstrong of his awareness of the May 28 Order, his ability to act in compliance of such order and his intention to wilfully disobey its terms.

22. Mr. Whitfield is a defendant in the matter of Casillas v. Jerry Whitfield, et al., Los Angeles County Municipal Court No. 91K49349. My office represents Mr. Casillas in that action. Mr. Casillas is a staff member of the Church and is suing Mr. Whitfield and others for false imprisonment and false arrest.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 31st day of December, 1992 at Los Angeles, California.

H:\ARMSTRON\BART.DEC

Laurie J. Bartilson

DECLARATION OF KENDRICK L. MOXON

I, KENDRICK L. MOXON, hereby depose and state:

1. I am an attorney licensed to practice in the State of California. I am a partner in the law firm of Bowles & Moxon, which represents Plaintiff, Church of Scientology International, in the case of Church of Scientology International vs. Gerald Armstrong, et al., LASC Case No. BC 052395. I have personal knowledge of the matters stated herein and, if called upon to testify thereto, could and would competently do so.

2. On Wednesday morning, December 30, 1992, at 11:55 a.m., I telephoned to and spoke with Ford Greene, counsel for Defendant, Gerald Armstrong. I informed Mr. Greene that Plaintiff would appear at 1:30 p.m. on Thursday, December 31, 1992 in Department 88 of the Superior Court of the State of California for the County of Los Angeles on an *ex parte* basis in order to seek an Order to Show Cause Why Gerald Armstrong Should Not Be Held in Contempt. I put Mr. Greene on notice of that appearance.

3. Although the papers in support of the application were not yet completed on December 30, 1992, my office faxed to Mr. Greene, at his request, a draft of the application and points and authorities in support thereof on the evening of December 30, 1992.

I declare under penalty of perjury under the laws of the

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State of California that the foregoing is true and correct.

Executed this 31st day of December, 1992 at Los Angeles, California.

KENDRICK L. MOXON

Exhibit D

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

--oOo--

CERTIFIED COPY

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG; DOES 1-25, inclusive,

Defendants.

No. BC 052395

DEPOSITION OF

GERALD ARMSTRONG

Volume III

October 7, 1992

REPORTED BY: LARRY BOSTOW, CSR# 5941

MR. GREENE: Go ahead.

MS. BARTILSON: Q. Mr. Armstrong, while working in Mr. Greene's office, have you provided assistance to any other individuals who are engaged in disputes with the Church of Scientology International or any other entity that's covered by the settlement agreement?

MR. GREENE: Same two positions.

MS. BARTILSON: That's at any time since he came to work at your office?

MR. GREENE: That's absolutely right.

MS. BARTILSON: Okay. Exhibit 13.

(Whereupon Plaintiff's Exhibit 13 was marked.)

MS. BARTILSON: Q. The court reporter has handed you, Mr. Armstrong, something that has been marked as Exhibit 13. It's a two-page document. It begins, on page 1, with the words "Where," colon, "Marin Superior Court, San Rafael Civic Center."

And I'll ask you if you've ever seen this document before.

A. Yes.

Q. And is this a press release that was provided to the media concerning your case?

A. Yes.

Q. You know who wrote the press release?

A. Yes.

Q. Who was that?

A. Mr. Greene.

Q. Did you help Mr. Greene in its preparation.

A. Broadly, no.

Q. Did you consult with him about its preparation at all?

A. No.

Q. Did he show it to you after he had drafted it?

A. Yes.

Q. Did you make any changes to it after he showed it to you?

A. I have a recollection of making minor typographical changes.

Q. Other than that, you approved it?

A. In that I did not object to it.

Q. Do you know to whom, if anyone, this press release was sent?

A. I presently have no recollection of any of the recipients.

Q. Did you send it out to anyone yourself?

A. I have no recollection of sending it out.

Q. Might have; might not have; you just don't

A. Yes.

Q. Do you recall approximately how many such interviews you've given in 1992?

A. I believe there has only been one interview which I would consider an interview, and that was with CNN.

Q. And were there other times when you spoke to reporters, or other media representatives, that you did not consider an interview?

A. Yes.

Q. Approximately how many of those?

A. I must retract that.

I consider that Bill Horne of the American Lawyer interviewed me.

And then additional contacts of any kind with the media, perhaps ten.

Q. All right. Let's look first at the interview with CNN.

Do you recall the date of that interview

A. My recollection is March 20th, 1992.

Q. Do you recall if it was before or after the hearing held before Judge Dufficy in Marin County Superior Court on the motion for preliminary injunction

A. Yes.

Q. Which was it, before or after?

A. After.

Q. The same day or the next day?

A. Same day.

Q. And where did this interview take place?

A. In Mr. Greene's office.

Q. Do you recall the name of the reporter?

A. Yes.

Q. And who was that?

A. Don Knapp, N-a-p-p (sic).

MR. GREENE: K-n --

THE WITNESS: K-n-a-p-p.

Thank you.

MS. BARTILSON: Q. And for approximately how long were you interviewed by Mr. Knapp?

A. Perhaps five minutes. Less.

Q. And was your lawyer also interviewed by Mr. Knapp?

A. Yes.

Q. Do you recall any of the substance of what you communicated to Mr. Knapp during the interview?

A. Yes.

Q. What was that?

A. It related to Scientology's practice of fair game and my knowledge of organizational and Hubbardian fraud.

11

Q. Knowledge which you had gained because of your years of experience with the organization, as you term it?

A. Correct.

Q. Was the interview videotaped?

A. Yes.

Q. Was the entirety of the interview videotaped, or were there times that you also spoke with Mr. Knapp that were not videotaped?

A. If, by that, you mean when, for example, I may have helped him out with his camera gear, opened the door for him and said "Good-by," or helped him move things around and exchanged comments of that nature, then, no. I think that's how to answer it.

MS. BARTILSON: Could you read back the question and the answer, because I'm not sure --

MR. GREENE: He said that there was no substance aside from courtesies that -- there was nothing -- nothing was videotaped except --

Go ahead. Read it back.

MS. BARTILSON: I'm not sure that was the answer to the question. I just want to see what we've got.

Okay.

(Whereupon the record was read.)

was aired by CNN.

MS. BARTILSON: Q. So you asked Mr. Knapp how you could go about doing that?

A. That's the gist of the conversation.

Q. Do you recall his reply?

A. Not specifically.

Q. Did you discuss anything else with Mr. Knapp besides the obtaining of the videotape of that segment?

A. It may have been that we discussed running briefly.

Q. Did you ever have any other occasion to speak with Mr. Knapp besides the two that you've now described?

A. No.

Q. Do you know who arranged for Mr. Knapp to come to Mr. Greene's office on March 20th?

A. No.

Q. Were you working in Mr. Greene's office on March 20th, 1992?

A. Yes.

Q. When were you interviewed by Bill Horne?

A. I believe in the spring, this year.

Q. Do you recall what month?

A. Not right now.

Q. Do you recall if it was before or after the

CNN interview that you've described?

A. It was after.

Q. Do you recall if it was before or after the first time you came down to Los Angeles for a hearing in this case, after it had been transferred to Los Angeles?

A. I believe it was before.

Q. Okay. How did you come to have an interview with Mr. Horne?

A. I think that it stems from my involvement in Scientology litigation, which subject he was covering in his story.

Q. Did he contact you, or did you contact him?

A. I believe he contacted me.

Q. By telephone or in person or in writing?

A. I believe by telephone.

Q. Do you recall approximately how long before your interview with Mr. Horne he contacted you by telephone?

A. It might have been as long as a couple of weeks.

Q. And your interview was in person, was it not?

A. Yes.

Q. As best you can recall, when Mr. Horne contacted you by telephone that first time, what did he say to you and what did you say to him?

A. I have no recollection.

Q. Did you have any subsequent telephone calls with Mr. Horne before you were interviewed by him in person?

A. I believe so.

Q. Do you recall how many?

A. Perhaps two.

Q. Can you distinguish between the two conversations in your mind, or do they blur together when you think about them?

A. I distinguish them by his proximity: As he approached, he made a call.

Q. As he approached San Anselmo from some other part of the country?

A. Correct.

Q. Do you recall what was said in the first conversation?

A. No.

Q. Do you recall anything that was said by either of you in the second conversation?

A. It related to logistics, when was he arriving.

Q. Approximately how much time did you spend with him after he had arrived?

A. I believe I spent, myself, perhaps an hour and a half with him.

Q. Do you know anyone else who spent time with him?

A. Mr. Greene spent some time with him.

Q. Do you recall how much time?

A. No.

Q. Was Mr. Greene present when you were interviewed by him?

A. Some of the time.

Q. Were you present when Mr. Greene was interviewed by him?

A. Some of the time.

Q. Where did your interview take place?

A. In the office and walking into San Anselmo, having lunch, and returning.

Q. Mr. Horne arrived at your office on the day of the interview, which date you don't recall; is that right?

A. I'm sorry. I didn't get that.

Q. Did Mr. Horne arrive on his own at your office?

A. Yes.

Q. Was he by himself?

A. Yes.

Q. Did he tape-record the interview?

A. No.

Q. Did he take notes?

A. At times.

Q. Do you remember the subjects that you discussed with Mr. Horne?

A. Broadly, yes.

Q. Did you tape the interview with Mr. Horne?

A. No.

Q. Did Mr. Greene?

A. I don't know.

MR. GREENE: God may have.

MS. BARTILSON: God records everything, Ford. Best court reporter of all.

Q. What subjects do you recall discussing with Mr. Horne, speaking of broad subjects now?

A. The effect of the settlement agreements, the plight of the organization, what it would take to end its legal troubles.

Q. Anything else?

A. That's, basically, it.

Q. When you say "the effect of the settlement agreements," you are talking about agreements other than just yours?

A. Mine and others of that ilk, so both on a personal and theoretical and real level.

Q. And you are talking here about other settlement agreements that included nondisclosure agreements; is that right?

A. What was your question again?

Q. When you say "others of that ilk," you are discussing other settlement agreements that included nondisclosure provisions; is that correct?

A. Specific to the organization, yes.

Q. Did you discuss your own litigation with CSI with Mr. Horne?

A. I believe it was discussed in some form, the specifics about which I do not know.

Q. You don't know, or you don't recall?

A. I fail to see a difference in that sentence or context.

Q. Well, if you don't know something was discussed, you could not know it by never having been there or it never having come up.

A. But you know that I was there, and I said it had come up. So we've eliminated those two from the definition, at least, the distinction between "know" and "recall" in that sentence.

In any case, if it would speed things: I do not recall.

Q. Did you discuss with Mr. Horne any of your experiences that you had had with any Church of Scientology or with Mr. Hubbard prior to 1986?

A. I only met him in 1992.

Q. Right.

Did you discuss with him any experiences you had had with the Church of Scientology or Mr. Hubbard, and dating those experiences back to before 1986?

A. I have no recollection of any specific experience being discussed.

Q. Might have; might not have; you just don't recall?

MR. GREENE: Objection.

You can answer the question.

THE WITNESS: Yes.

MS. BARTILSON: Q. But you discussed the settlement agreements with him; is that right?

A. That is one of the things which I recall at this time.

Q. Did you give him a copy of your settlement agreement?

A. I don't believe so.

Q. Did you give him any documents?

A. I may have.

Q. Do you recall, as you sit here today, any

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documents that you know you gave to him?

A. No.

Q. Did your lawyer give him any documents?

A. I don't know.

Q. If you had given Mr. Horne any documents, is there anywhere you might have made note of that or kept a record of it in some way?

A. There could be.

Q. Where would that be?

A. I don't know.

Q. You might have made such a note, but you don't know where that note would be?

MR. GREENE: Okay. Enough. Speculation.

Don't answer any more of these "if you"-type questions.

MS. BARTILSON: Well, I'm trying to find out if there's anything in existence that could refresh the witness's recollection, and I think I'm entitled to that.

MR. GREENE: Then ask him. No more speculative questions.

Don't answer the "if," speculative, questions.

MS. BARTILSON: Q. When you gave documents to reporters or other members of the media, Mr. Armstrong, has it been your custom and practice to make

But as to the specific discussion of it as a workable philosophy, I don't believe so.

Q. Do you recall anything else that you discussed with Mr. Welkos during that conversation besides what you've already testified to?

A. Perhaps the transfer of the case to Los Angeles.

You won that transfer motion. You shouldn't complain.

MR. GREENE: Yeah, shooting gun.

MS. BARTILSON: I figure we're 1 for 1 on the transfer motions.

MR. GREENE: Yeah, tit for tat. But we'll see how the tat --

MS. BARTILSON: Q. Anything else, that you recall?

A. Not that I recall.

Q. When was the next time you spoke to Mr. Welkos or Mr. Sappell?

A. Around the time of the Sohigian ruling.

Q. This is another telephone conversation?

A. In that I have only met Mr. Welkos on that one occasion, yes.

Q. I apologize. You said that, and I forgot.

And this was a conversation with Mr. Welkos?

A. Yes.

Q. Did you call him, or did he call you?

A. I believe I originated the conversation.

Q. What did he say to you, and what did you say to him, during that conversation?

A. I believe I advised him of the Sohigian ruling.

Q. Did you discuss anything else with him?

A. I think it was -- That's all that I recall being the subject of discussion at that time.

Q. Did you tell him that as a result of the Sohigian ruling, you now felt that you were more free to do things that you had been constrained about doing before?

A. No, I never said that. Because I did not feel I was constrained before. But rather that by specifically denying the injunction as to all of those things which the organization sought in the preliminary injunction, that I was free from the potential of an injunction.

Q. Okay. Did you have another conversation with Mr. Welkos or Mr. Sappell after that one?

A. Yes.

Q. When was that?

A. Perhaps two months ago.

change if you did. I believe it's covered by some already outstanding document requests.

Q. Any other conversations that you had with Mr. Lobsinger besides the ones that we've discussed?

A. No.

Q. When in 1992 did you speak to Richard Behar?

A. Sometime in the spring.

Q. Do you recall if it was before or after the hearing in front of Judge Dufficy?

A. I believe it was after.

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Q. Do you recall if it was before or after your first appearance in Los Angeles after this case had been transferred to Los Angeles?

A. It may have been.

Q. It may have been before?

A. Before or after.

Q. Okay. Was this the only occasion on which you spoke to Mr. Behar in 1992, or was there more than one?

A. There may have been two, but I have no recollection of if or when.

Q. Was it by telephone?

A. Yes.

Q. Did you call him, or did he call you?

A. I believe I called him.

Q. Do you recall the reason for your telephone call to Mr. Behar?

A. I think it had to do with the organization's suing either Time or Reader's Digest for the reprint of the Time article.

Q. So someone suing Time or Reader's Digest was your reason for your calling Mr. Behar?

A. Someone?

Q. Right.

A. No.

Q. Then I misunderstood.

A. The organization's suit.

Q. Okay.

A. Right.

Q. Are you a party to that suit?

A. I'm sorry?

Q. Are you a party to that suit?

A. No.

Q. To the best of your recollection, during that conversation, what did you say to him, and what did he say to you?

MR. GREENE: At this point, Mr. Armstrong, I'm going to instruct you not to answer that question based on the attorney-client, work-product, and joint-defense privileges.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

--oOo--

CERTIFIED COPY

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

No. BC 052395

Gerald Armstrong; Does 1-25, inclusive,

Defendants.

DEPOSITION OF

GERALD ARMSTRONG

Thursday, October 8, 1992

VOLUME IV

REPORTED BY: BARBARA H. STOCKFORD, CSR No. 4575

MR. GREENE: So as to that one, I instruct you not to answer.

MS. BARTILSON: Just so I'm clear, the basis for your instruction is that --

MR. GREENE: Work product.

MS. BARTILSON: -- is that Mr. Armstrong was acting as your paralegal in his own case?

MR. GREENE: In his case, got it.

MS. BARTILSON: Q. Did you, at any time since July 22nd, 1992, discuss, however briefly, with either of the Aznarans any matters concerning their own case?

A. Broadly, yes.

Q. What did you discuss?

MR. GREENE: Let me take a break here.

(Sotto voce conversation between the witness and Mr. Greene.)

MR. GREENE: Go ahead.

MS. BARTILSON: Q. After discussing it with your attorney, Mr. Armstrong, what's the answer to your question?

A. The extent of those matters was the relaying of a communication from Mr. Greene or back and forth.

MS. BARTILSON: Q. You were relaying a communication from Mr. Greene to the Aznarans?

A. It may have been that.

Q. May have been?

A. With the understanding that it could take the form as simple as, "Is your fax machine on?"

Q. Did you fax things to the Aznarans?

MR. GREENE: Mr. Armstrong, I'm going to instruct you not to answer that question based on attorney-work product privilege.

MS. BARTILSON: Q. Did you assemble documents for the purpose of faxing to the Aznarans?

MR. GREENE: Same instruction.

MS. BARTILSON: Q. Did you receive faxes from the Aznarnans?

MR. GREENE: Same instruction.

MS. BARTILSON: This is for the work product privilege concerning Mr. Armstrong's case?

MR. GREENE: No. Concerning the Aznarans' case.

MS. BARTILSON: Concerning the Aznarans' case.

MR. GREENE: And based on general privacy concerns of my office --

MS. BARTILSON: Privacy concerns of your office. You won't let him tell me whether or not he faxed anything to the Aznarans?

MR. GREENE: That's right.

MS. BARTILSON: Q. Mr. Armstrong, has Mr. Greene ever instructed you not to work on the Aznaran file?

MR. GREENE: I'm going to object, and that objection is asserted on behalf of Mr. Armstrong based on the attorney-client privilege.

Do not answer that question.

MS. BARTILSON: Q. Mr. Armstrong, in your capacity as Mr. Greene's paralegal, has Mr. Greene ever instructed you not to work on or not to look at any of the filings in his office?

MR. GREENE: Same instruction. And I'll also add to that instruction or add to the basis work product on behalf of the Aznarans and privacy with respect to my office generally.

Also, with respect to all of those prior objections, I'll add an additional basis which is the Sixth Amendment right to counsel.

MS. BARTILSON: Are you sure you don't want to add the Fifth Amendment, too, Ford?

MR. GREENE: We'll see about that.

MS. BARTILSON: Okay. You're the lawyer.

Q. Mr. Armstrong, other than relaying communication from Mr. Greene, whether by fax or verbally, to the Aznarans concerning their case, have you had any other communications with the Aznarans concerning their case?

MR. GREENE: That misstates his prior testimony.

Don't answer that question.

MS. BARTILSON: Hard to answer if I can't finish it. Why don't you let me finish the question and raise the objection so we have a complete record?

MR. GREENE: I thought you said "did you have any communications on any other cases." I thought you were finished. Sounded like the end of a question to me.

MS. BARTILSON: No.

Can you read back what I had so far?

(Record read.)

MS. BARTILSON: By George. I take it back. I finished the thought. I didn't even know it.

So he's not going to answer?

MR. GREENE: That is correct.

MS. BARTILSON: Okay.

Q. Mr. Armstrong, do you know Tilly Good?

A. Yes. In the sense -- when you say "know," I know of her existence, yes.

Q. Have you ever spoken with Ms. Good?

A. Yes.

Q. On how many occasions?

A. Perhaps four.

Q. Have you ever met Ms. Good?

A. No.

Q. Have you ever worked on a her case file?

MR. GREENE: Objection. Attorney-client work product privilege.

All of the prior objections which would be work product, privacy, interference with right to counsel and attorney-client.

MS. BARTILSON: These are asserted on behalf of Ms. Good?

MR. GREENE: That's correct.

Well, no. Attorney-client and work product are asserted on behalf of Ms. Good. And privacy is asserted on behalf of my office generally. And Sixth Amendment is asserted on behalf of Ms. Good.

MS. BARTILSON: Q. When is the first time you remember speaking with Ms. Good, Mr. Armstrong?

A. Some months ago.

Q. In 1992?

A. I believe so.

Q. Was it before April 1992?

A. I don't recall.

Q. When is the last time you recall speaking with Ms. Good?

A. Perhaps a month ago.

Q. Have you provided Mr. Greene with any assistance in working on Ms. Good's case?

A. I'm going to instruct you not to answer that based on ambiguity and vagueness.

MS. BARTILSON: Ambiguity and vagueness?

MR. GREENE: Right.

MS. BARTILSON: Q. Is Mr. Greene Ms. Good's attorney?

A. Yes.

Q. Does Ms. Good have a dispute with one or more Churches of Scientology?

MR. GREENE: And with respect to that, Mr. Armstrong, I will instruct you not to answer the question based on attorney-work product privilege.

MS. BARTILSON: Q. Mr. Armstrong, do you have personal knowledge whether or not Ms. Good has a dispute with any Church of Scientology?

MR. GREENE: Again, same instructions to Mr. Armstrong.

Don't answer the question.

MS. BARTILSON: Q. Or if she had one?

MR. GREENE: Same instruction.

MS. BARTILSON: I find this a little curious, Mr. Greene, since you have been bombarding my office with letters concerning Ms. Good's dispute. I can hardly see how you claim that's privileged information.

Q. Mr. Armstrong, do you know Denise Cantin?

A. Yes.

Q. Had you ever met Ms. Cantin -- Dr. Cantin?

A. Yes.

Q. Where did you meet her?

A. At the Hub law office.

Q. On how many occasions have you met Dr. Cantin?

A. One.

Q. When was that?

A. I would say approximately --

MR. GREENE: Wait, wait, wait.

Actually, Mr. Armstrong, I'm going to instruct you not to answer that question, and I'm going to -- that instruction is based on the attorney-client privilege between myself and Dr. Cantin, as well as work product privilege, because I do not want Scientology knowing anything about the frequency or anything else that I meet with my clients.

So don't answer the question.

And I also would add two other objections, which is the right to privacy and the interference with the right to counsel.

MS. BARTILSON: Don't hire Jerry Armstrong to be your paralegal when he's not supposed to do what he's doing. Real simple solution.

Not only that, he already testified she was at your office once, so you can at least let him tell me when he's not giving up anything.

Q. Have you spoken with Dr. Cantin on the telephone?

A. Yes.

Q. Have you discussed with Dr. Cantin her dispute with any Churches of Scientology?

MR. GREENE: And there, the same objections apply. The same instruction.

MS. BARTILSON: Even though I'm not asking for substance?

MR. GREENE: That's correct.

MS. BARTILSON: Okay.

Q. Do you know Ed Roberts?

A. Yes.

Q. Have you met Mr. Roberts?

A. Yes.

Q. Where did you meet Mr. Roberts?

A. In Boulder Creek.

Q. When was that?

MR. GREENE: And with respect to that, Mr. Armstrong, I'll give you the same instruction. And the -- for the same reasons as applied to Roberts.

MS. BARTILSON: Q. When you met Mr. Roberts in Boulder Creek, was it in connection with your employment as a paralegal for Mr. Greene's office?

A. Yes.

Q. Did you interview Mr. Roberts?

A. Yes.

Q. Did you take notes of your interview with Mr. Roberts?

A. No.

Q. At the time you interviewed Mr. Roberts, had he engaged Mr. Greene to represent him?

A. Yes.

Q. Was Mr. Greene engaged to represent him in his disputes with the Church of Scientology or related entities?

A. Yes.

Q. And did you interview him concerning that dispute?

A. Yes.

Q. I'll ask you again when that was.

MR. GREENE: You can answer.

THE WITNESS: In approximately November 1991.

MS. BARTILSON: Q. Have you spoken with Mr. Roberts since the time you interviewed him in November of 1991?

A. Yes.

Q. How many times?

A. Perhaps seven.

Q. Have you discussed with him on any of those seven occasions his dispute with one or more Churches of Scientology?

MR. GREENE: I'm going to draw the line there and instruct you not to answer for the same reasons previously stated.

MS. BARTILSON: Q. When was the last time you spoke with Mr. Roberts?

A. Perhaps two months ago.

Q. Since November of 1991, have you helped Mr. Greene prepare any documents in connection with the Roberts case?

MR. GREENE: As to that, I will draw the line and instruct you not to answer the question based on the reasons previously stated.

MS. BARTILSON: Q. Since November of 1991, have you had any discussions with Mr. Greene concerning the substance of Mr. Roberts' claims against any of the Churches of Scientology or related entities?

MR. GREENE: Same instruction; same reasons.

MS. BARTILSON: Q. Since November of 1991, have you had any discussions with Mr. Roberts or have you been present in any discussions between Mr. Roberts and others concerning his claims against Church of Scientology or any related entities?

MR. GREENE: Same instruction; same reasons.

MS. BARTILSON: Q. I'd like to ask those same questions concerning both Ms. Good and Dr. Cantin, and I assume they will be the same.

MR. GREENE: I will stipulate as to the same questions with the same two positions in response as to Tilly H. Good and Denise Cantin.

MS. BARTILSON: Good enough.

Q. Now, at some point after the settlement agreement was signed in December of '86, you received a payment from Michael Glynn of the money that you were due pursuant to the settlement agreement; is that correct?

MR. GREENE: That's been asked and answered.

MS. BARTILSON: I know; this is just

Exhibit J

Laurie J. Bartilson
BOWLES & MOXON
6255 Sunset Boulevard
Suite 2000
Hollywood, California 90028
(213) 661-4030

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY INTERNATIONAL

ORIGINAL FILED
MAR 17 1993
LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiff, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	Case No. BC 052395 NOTICE OF RULING DEPT: 30 TRIAL DATE: May 3, 1993 MOTION CUT-OFF: Apr. 15, 1993 DISC CUTOFF: Apr. 2, 1993

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 17, 1992, the Honorable David Horowitz, Judge of the Los Angeles Superior Court, ruled on defendant Gerald Armstrong's Ex Parte Application for Stay of Proceedings, etc. as follows:

1. Defendant's motion is set for hearing on March 23, 1993, at 9:00 a.m. Defendant's application shall be his moving papers. Opposing papers shall be served by telefax or hand service and

filed by 12:00 p.m. on March 19, 1993. Reply papers, if any, shall be served by telefax or hand service and filed by 12:00 p.m. on March 22, 1993.

2. Defendant's request to be heard on his alternative request for an extension of time in which to oppose summary adjudication motions was denied. The opposing papers are due to be filed according to the rules provided in the Code of Civil Procedure.

3. Plaintiff's counsel was ordered to give notice.

DATED: March 17, 1993

BOWLES & MOXON

By: Laurie J. Bartilson
Laurie J. Bartilson
Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 17, 1993, I served the foregoing document described as NOTICE OF RULING on interested parties in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE **VIA TELEFAX AND U.S. MAIL**
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

PAUL MORANTZ **VIA TELEFAX AND U.S. MAIL**
P.O. Box 511
Pacific Palisades, CA 90272

Andrew H. Wilson **VIA TELEFAX AND U.S. MAIL**
WILSON, RYAN & CAMPILONGO
35 Montgomery Street
Suite 450
San Francisco, California 94104

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on March 17, 1993, at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelopes by hand to the offices of the addressees.

Executed on ______________, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

PAul BRAdFord
Print of Type Name

Paul Bradford
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

Exhibit K

HUB LAW OFFICES
Ford Greene, Esquire
California State Bar No. 107601
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

Attorney for Defendant
GERALD ARMSTRONG

30
ORIGINAL FILED
MAR 12 1993
LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation; Plaintiffs, vs. GERALD ARMSTRONG; DOES 1 through 25, inclusive, Defendants.	No. BC 052395 **STIPULATION AND ORDER**

WHEREAS, Plaintiff's Motion to Compel Answers to Deposition Questions and Production of Documents is currently set for hearing on February 19, 1993 at 8:30 a.m. in Department 30; and

WHEREAS Defendant's Opposition to Plaintiff's Motion to Compel Answers to Deposition Questions and Production of Documents is to have been filed and served on or before February 10, 1993;

IT IS HEREBY STIPULATED by and between Laurie J. Bartilson, counsel for plaintiff, Church of Scientology International and Ford Greene counsel for defendant Gerald Armstrong as follows:

1. Defendant's Opposition to Plaintiff's Motion to Compel Answers to Deposition Questions and Production of Documents shall be served by telecopier on Bowles and Moxon, attorneys for plaintiff, by Friday, February 12, 1993 and filed with the Court on February 16, 1993.

2. The hearing on Defendant's Opposition to Plaintiff's Motion to Compel Answers to Deposition Questions and Production of Documents shall remain as set at 8:30 a.m. on February 19, 1993.

3. The telecopied signature of Ford Greene shall be as effective as the original thereof.

DATED: February ~~9~~ 12, 1993

BOWLES AND MOXON

By:
LAURIE J. BARTILSON
Attorney for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

DATED: February 9, 1993

HUB LAW OFFICES

By:
FORD GREENE
Attorney for Defendant
GERALD ARMSTRONG

MAR 12 1993

DATED: ~~February ___, 1993~~

David A. Horowitz

Judge of the Superior Court

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000 Los Angeles, California, 90027.

On March 18, 1993, I served the foregoing document described as PLAINTIFF'S OPPOSITION TO ARMSTRONG'S ALTERNATIVE APPLICATION TO STAY PROCEEDINGS on plaintiff in this action as as follows:

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[ ] by placing [ ] the original [x] a true copy thereof in a sealed envelope addressed as follows:

Ford Greene, Esquire **BY FAX AND U.S. MAIL**
711 Sir Francis Drake Boulevard
San Anselmo, California 994960

Paul Morantz Esquire **BY FAX AND U.S. MAIL**
P.O. Box 511
Pacific Palisades, California 90272

[X] (BY MAIL) * I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[ ] (BY PERSONAL SERVICE) ** I delivered such envelopes by hand to the offices of the above addressee.

Executed on March 18, 1993. I declare under penalty of perjury of the laws of the State of California that the above is true and correct.

PAUL BRADFORD
Name

Paul Bradford
Signature

Ford Greene, Esquire
California State Bar No. 107601
HUB LAW OFFICES
711 Sir Francis Drake Boulevard
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

PAUL MORANTZ, ESQ.
P.O. Box 511
Pacific Palisades, CA 90272
(310) 459-4745

Attorney for Defendant
GERALD ARMSTRONG

FILED
MAR 22 1993
JAMES H. DEMPSEY, CLERK
S Robles
BY S. ROBLES, DEPUTY

FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY DEPUTY

ORIGINAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation;

Plaintiffs,

vs.

GERALD ARMSTRONG; DOES 1 through 25, inclusive,

Defendants.

AND RELATED CROSS ACTION

No. **BC 052395**

DEFENDANT ARMSTRONG'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF PROCEEDINGS

Date: March 23, 1993
Time: 9:00 a.m.
Dept: 30

Motion Cut Off: April 5, 1993
Discovery Cut Off: 4/5/93
Trial Date: May 3, 1993

INTRODUCTION

Scientology's recitation of the factual history of this case in an attempt to create the appearance that all Mr. Armstrong has attempted to do is delay is incorrect. For example, the Court will recall that last Fall, instead of following the Local Rules and filing a demurrer and motion to strike concurrently as required, Scientology filed them consecutively. [1]

Most recently, Scientology has delayed the resolution of Armstrong's appeal of the Sohigian injunction. Bowles and Moxon attorney, Karen D. Holly, sought and on March 17, 1993, obtained a second additional 30-day extension on behalf of another attorney, Eric Lieberman. She testified that "Eric M. Lieberman, of the firm Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. is the lead appellant counsel for plaintiff-respondent . . . [who] is directly responsible for the following appellate matters . . . [listing the demands of various other legal obligations and matters in justification of the extension.] [2] (Exhibit A.)

The very thing for which Scientology rails against Armstrong's sole practitioner counsel in its opposition to the stay motion, it asks for.

---

[1] Additional delay also resulted when the case was transferred from Marin County Superior Court to Los Angeles and when Scientology peremptorily disqualified Judge Geernaert to whom the matter was initially assigned for hearing on the preliminary injunction motion.

[2] For similar reasons, Armstrong has not been able to file his oppositions to Scientology's three pending motions for summary adjudication. Since all said motions were served by mail on Mr. Morantz, he did not know that March 17 - the day he appeared on the ex parte application for a stay - was the day the oppositions were due. (Exhibit B, Declaration of Paul Morantz) The opposition factually does not require much. Mr. Armstrong's declaration filed on March 16, 1992 in opposition to Scientology's motion for a preliminary injunction is sufficient to raise a genuine issue of material fact regarding the interactions between Scientology and his own attorney to send it to a jury.

The problem with regard to completing the oppositions to the summary adjudication motions is completing the separate statements because all of Scientology's lengthy factual recitations must be typed in order to comply with the Local Rules. Even without the separate statements, the Court could not grant summary adjudication because the court cannot enforce an illegal contract. When illegality in a contract comes to the Court's attention, it must investigate the matter on its own. LaFortune v. Ebie (1972) 26 Cal.App.3d 72, 75; Lewis & Queen v. M.M. Ball Sons (1957) 48 Cal.2d 141, 147-148.

Fortunately for the Court, since the appellate court will soon rule on the issue of the contract's illegality, this Court needn't make its own ruling. Recognizing that appellate guidance will be forthcoming shortly, we have asked for a stay. As discussed, infra, most recently Judge Wayne saw the wisdom in taking such action.

The real issues are (1) whether or not the injunction is mandatory in effect requiring a stay of the trial court proceedings pending resolution of Armstrong's appeal, (2) whether or not Mr. Armstrong is being unfairly compelled to choose between his Fifth Amendment right in a criminal sense and his right to fully participate in his defense in a civil sense, (3) whether or not the reversal of the Sohigian injunction would moot Scientology's pending motions for summary adjudication, and (4) whether or not the reversal of the Sohigian injunction would eliminate Scientology's justification for deposing all of Ford Greene's ex-Scientologist clients, some of whom have pending claims against Scientology, and the growing list of Armstrong's friends. If the contract is held to be illegal, it would directly affect this entire case. The currently pending motions for summary adjudication are predicated upon the enforceability of the contract. Judge Sohigian's injunction is based on the contract. The same public policy defenses apply to both the injunction and the case in chief. The judge most recently to consider the issue was the Honorable Diane Wayne, before whom Scientology brought contempt proceedings against Mr. Armstrong. She stated,

> "THE COURT: Gentlemen. This case is on appeal?
>
> MR. GREENE: Yes.
>
> . . .
>
> THE COURT: It seems to me to be ridiculous to hold this hearing prior to a determination whether or not this is a valid order. I mean I have some serious questions about the validity of the order. And I'm not prepared to waste my time if it's going to be heard and apparently it's going to be heard very soon [in the Court of Appeal]. . ..
>
> . . .
>
> THE COURT: I mean it just seems like an inordinant waste of our time."

(Reporter's Transcript of Proceedings, March 5, 1993, at pp. 1-2, Exhibit H to Plaintiff's Opposition Memo.)

The injunction is mandatory because it has changed Mr. Armstrong's pre-litigation status and position and a stay of the entire proceedings is automatic. Lastly, since Judge Wayne continued the contempt proceedings to June 1, 1993, Mr. Armstrong remains in jeopardy and is compelled to make the unfair choice between acting so as to defend himself civilly, which could result in self-incrimination, or standing on his right against self-incrimination which would result in not being able to defend himself civilly.

I. A STAY SHOULD BE GRANTED BECAUSE THE INJUNCTION IS MANDATORY IN EFFECT, EVEN THOUGH IT IS ONLY PROHIBITORY IN FORM

"An injunction may be mandatory in effect, and stayed on appeal, even though it is only prohibitory in form." 6 Witkin, California Procedure, Provisional Remedies, § 243, p. 212. If an "injunction compels a party affirmatively to surrender a position which he holds and which upon the facts alleged by him he is entitled to hold, it is mandatory." Pomin v. Superior Court (1941) 44 Cal.App.2d 206, 210, 112 P.2d 17, 19; City of Pasadena v. City of Alhambra (1946) 75 Cal.App.2d 91, 170 P.2d 499. The Court "must examine the terms and effect of the injunction in order to discover its character. Feinberg v. One Doe Co. 14 Cal.2d 24, 28, 92 P.2d 640.) [¶] The purpose of mandatory relief is to compel the performance of a substantive act or a change in the relative positions of the parties. (Mark v. Superior Court 129 Cal. 1, 6-7, ...)" (emphasis added.) People v. Mobile Magic Sales, Inc. (1979) 96 Cal.App.3d 1, 13, 157 Cal.Rptr. 749.

One of the illegal components of the contract was that it required Armstrong to take a dive on Scientology's appeal of Judge Breckenridge's opinion in Church of Scientology of California v. Armstrong, LASC Case No. C 420 153 through the provisions of paragraph 4-B which required Armstrong not to oppose such appeals. [3] In February 1990 Armstrong advised the Court of Appeal of this provision and requested permission to participate in Scientology's appeal of his case. (Exhibit D, Respondent's Petition for Permission to File Response and for an Extension of Time to File Response at pp. 1-2.) In March, 1990, Mr. Armstrong filed a declaration in the Court of Appeal the content of which specifically violated the settlement contract which at that time Armstrong stated was unenforceable. [4] (Exhibit E, Declaration of Gerald Armstrong executed March 15, 1990.) In December 1990, Mr. Armstrong filed another declaration in the Court of Appeal in which he made additional reference to matters prohibited by the settlement contract. [5] (Exhibit F, Defendant's Appendix.) In July, 1991, Armstrong assisted Joseph A. Yanny and provided him two declarations for use. In August 1991 Armstrong commenced working for Ford Greene on, inter alia, cases against Scientology in one of which he filed certain declarations. On May 27, 1992, Armstrong executed a declaration in Religious Technology Center v. Scott, U.S. District Court, Central District of Los Angeles, CV 85-711 JMA (Bx). When the injunction issued on May 28 1992, the status quo was that Armstrong was acting as a normal citizen inasmuch as he was gainfully employed and was speaking out against injustice and providing sworn testimony in that regard.

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[3] Paragraph 4-B of the contract states: "As of the date of this settlement Agreement is executed, there is currently an **appeal pending** before the California Court of Appeal, Second Appellate District, Division 3, arising out of the above referenced action delineated as **Appeal No. B005912.** It is understood that this appeal arises out of the Church of Scientology's complaint against plaintiff which is not settled herein. This appeal shall be maintained notwithstanding this Agreement. Plaintiff agrees to waive any rights he may have to (continued...)

---

[3] (...continued) take any further appeals from any decision eventually reached by the Court of Appeal or any rights he may have to oppose (by responding brief or any other means) any further appeals taken by the Church of Scientology of California. The Church of Scientology of California shall have the right to file any further appeals it deems necessary. [Emphases added.]" (Settlement Contract, Exhibit C, at pp. 4-5.

[4] Scientology would no doubt find the following language of Armstrong's March 15, 1990, declaration to violate its settlement contract: "While working on a project for Mr. Hubbard I acquired the knowledge that millions of dollars of organization money had been channeled into his accounts." (p. 8, ¶ 19.)

[5] Among other things, Mr. Armstrong stated: "The legal battle waged by the organization was abusive, menacing and debilitative. The organization sued Mr. Flynn or his firm many times, filed countless false sworn declarations about Mr. Flynn and me, and attempted to frame both of us and bring false criminal charges against us." (p. 1, ¶ 2.)

In Pomin, the court of appeal reviewed a judgment of contempt. In that case, the defendant had been enjoined not to interfere with plaintiff's easement. Prior to the injunction, and prior to the litigation from which it issued, a truck resting not on wheels but on blocks had been placed across the easement sought to be enforced, completely closing the road. As the Court of Appeal noted,

> "The road was completely closed prior to the litigation, and to maintain the status quo, no prohibitory injunction was required, nor could one be enforced pending the appeal, for to do so would change the relative rights of the parties. If the roadway had been clear and open to travel prior to the action, a prohibitory injunction would have been proper, as it would be then in furtherance of preserving the litigation in statu quo." Pomin, 112 P.2d at 19.

In the case at bar, Armstrong's status at the inception of this litigation was that for over two years he had not been complying with provisions of the contract which he believed were illegal and violative of public policy. (Exhibit E, at p. 4, ¶ 8)

Therefore, the issuance of the injunction changed his status, and by such change is properly placed in the category of being a mandatory injunction.

In Youngblood v. Wilcox (1989) 207 Cal.App.3d 1368, 1372, fn. 1 (found at p. 8:25 of Opposition Memo.), the Court of Appeal found that an injunction preventing a country club from denying access to the Youngbloods after the revocation of their membership to be mandatory but in an incidental way, and nonetheless deemed the injunction prohibitory. This is different from Armstrong's case where the provisions of Scientology's contract which violate public policy have been enforced by an injunction to strip him of his right to act as a normal citizen who enjoys the exercise of basic and fundamental constitutional rights, and where for in excess of two years prior to the commencement of litigation had been enjoying the exercise of such rights.

II. A STAY SHOULD BE GRANTED BECAUSE THE COURT OF APPEAL WILL RULE ON WHETHER OR NOT THE CONTRACT IS ILLEGAL

Since Scientology commenced efforts to enforce the settlement contract before Judge Geernaert in Armstrong I, Gerald Armstrong's first line of defense has been that the contract violates public policy. Judge Geernaert tended to agree and dismissed Scientology's motion. (Exhibit G, Transcript of Proceedings 12/23/91 at p. 52.) Thereafter, Mr. Armstrong has continued to assert that the contract is void because it violates public policy. [6] When Scientology brought its motion for a preliminary injunction, it was based upon the contract, all of which it sought to enforce. (Motion for Preliminary Injunction, Exhibit H.) Its enforcement effort concentrated on paragraphs 7-G (requiring no assistance to those "adverse" to Scientology) (Exhibit I, Transcript, May 27, 1992, at p. 45:6-27) [7] and 7-H (requiring no testimony and avoidance of service of process). (Id. at pp. 12:26-13:22, 44:15-45:5, 48:7-27.) [8] Armstrong opposed it based upon the public policy defense and first amendment defenses. (Opposition to Preliminary Injunction, Exhibit J) When granting injunctive relief, Judge Sohigian interpreted and re-wrote the contract so as to eliminate some of the portions that were patently illegal. [9] In doing so, he impliedly recognized the validity of Armstrong's position that at least portions of the contract were illegal by including

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[6] The public policy defense was first raised in this Department on Demurrer. This Department refused to consider said defense on Demurrer. After being held for four months, the Court of Appeal denied Armstrong's petition for a writ.

[7] Paragraph 7-G is found at Exhibit C at p. 10.

[8] Paragraph 7-H is found at Exhibit C at pp. 10-11.

[9] For example, Judge Sohigian eliminated the Paragraph 7-H's requirement that Armstrong avoid service of process in complying with his obligation not to testify against Scientology in any judicial, legislative or administrative proceeding. Judge Sohigian also did not enforce the provisions of Paragraph 7-G which require Armstrong not to "assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations" and "not to cooperate in any manner with any organizations aligned against Scientology" by allowing Mr. Armstrong to assist governmental agencies and private litigant defendants. Section 6 of the injunction only prohibits Armstrong from "voluntarily assisting" plaintiffs, or potential plaintiffs regarding their claim or potential claim, or "voluntarily assisting" any person litigating or arbitrating a claim Scientology.

Armstrong's public policy, first amendment, restraint of trade, void for vagueness and other defenses in a balancing process which interpreted the contract and resulted in the injunction. [10]

Therefore, the public policy issues are squarely before the Court of Appeal because it was an abuse of discretion for Judge Sohigian to sanitize an illegal contract in order to make it enforceable. The appeal that is pending before the Fourth Division of the Second District will adjudicate the issue of whether the provisions of the contract that Scientology would enforce are illegally void as violations of public policy, violations of the first amendment, are in restraint of trade, void for vagueness, too indefinite and uncertain to be specifically performed, incapable of specific performance inasmuch as it would require protracted supervision and direction of the court, and void because Armstrong did not freely consent to the contract. (Exhibit K, Table of Contents from Appellant's Opening Brief.) If the Court of Appeal finds that the contract is illegal, and the injunction therefore void, such will involve a question of law, James v. Lyons Co. (1905) 147 Cal. 69, 75, which will become the law of the case. 9 Witkin (3d Ed. 1985), California Procedure, Appeal, § 744, p. 713. In light of the fact that illegality may be raised at any time, in the trial court or on appeal, by either the parties or on the court's own motion, the appellate court's determination of the legality of the contract is most salient. LaFortune v. Ebie (1972) 26 Cal.App.3d 72, 75; Lewis & Queen v. M.M. Ball Sons (1957) 48 Cal.2d 141, 147-148 [11]

Scientology relied on the settlement contract when seeking relief from Judge Sohigian. Judge Sohigian relied on the contract when issuing the injunction. On appeal, Armstrong has attacked the validity of the injunction by attacking the legality of the contract. Therefore, the legality of the contract will be ruled upon by the Court of Appeal.

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[10] See Section 8 of Judge Sohigian's injunction.

[11] If the question of illegality develops during the course of a trial, and when a court discovers a fact which indicates that the contract involved is illegal and ought not to be enforced, the court must instigate an inquiry in relation thereto. Thus, whenever the evidence discloses the relations of the parties to the transaction to be illegal and against public policy, it becomes the duty of the court to refuse to entertain the action. The disclosure is fatal to the case, and the court is justified in rendering judgment that neither party take anything from the other. Agran v. Shapiro (1954) 127 Cal.App.2d.Supp. 807, 273 P.2d 619, 631.

III. A STAY SHOULD ISSUE TO PROTECT ARMSTRONG'S FIFTH AMENDMENT RIGHTS

When Scientology sought injunctive relief, it predicated its entitlement thereto on the existence of a nexus between information or knowledge obtained by Armstrong as a Scientologist, and particular conduct rendered as a clerk/paralegal in Ford Greene's law office. As to such employment, Scientology agreed there had to be a "nexus between Armstrong's behavior on the one hand and something having to do with information that he ha[d] because of his affiliation with [Scientology] on the other hand[.]" (Exhibit I, p. 48:28-50:25.) Indeed, the discussion regarding Paragraph 7-G [12] between Judge Sohigian and Scientology counsel regarding "some reasonable construction of the contract" (Exhibit I, p. 51:11) proceeded as follows:

> THE COURT: . . . what we're trying to do is we're trying to construe the agreement reasonably so that we know what it means to quote "voluntarily assist or cooperate with any person adverse to Scientology in any proceeding against any of the Scientology organizations" and so forth, end quote. Voluntary assistance or cooperation doesn't mean voluntary assistance or cooperation which doesn't trade on some special talent or skill Mr. Armstrong has . . .
>
> MR. WILSON: Obviously not. I mean, obviously the intent of the agreement was that there had to be some connection between what Armstrong was doing and what he had previously been involved with with the organization.

(Exhibit I, p. 50:5-25.)

During the course of Armstrong's deposition after the injunction had been issued, counsel for Scientology advised Armstrong that they did not believe that the performance of routine clerical tasks constituted a violation of the injunction. (Exhibit L, Armstrong Deposition Excerpts, at pp. 45:6-27, 48:28-

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[12] See footnote 7, supra, regarding the text of this paragraph.

50:25, 51:11; 190:2-191:15, 197:3-198:10, 199:19-200:6) Thus, Armstrong did not assert the Fifth Amendment privilege against self-incrimination because there was no reason for it. Thereafter, upon seeking contempt against Mr. Armstrong, Scientology changed its position and claimed that Armstrong's conduct which it previously stated did not constitute a violation of the injunction, suddenly did. (Exhibit M, Bartilson Decl. in Support of Order to Show Cause.) At this point, Armstrong had already asserted his objections to the deposition questions, the last one of which was asked on October 8, 1992, which were then litigated. After the adverse determination thereof, and with the contempt proceeding having meanwhile been initiated, Armstrong asserted his Fifth Amendment right.

Moreover, Brown v. Superior Court (1986) 180 Cal.App.3d 701, 226 Cal.Rptr. 10 is not controlling here inasmuch as when Armstrong's counsel sought relief by requesting an opportunity to have a Code of Civil Procedure section 473 motion heard on an expedited basis because there were important matters of privilege at stake, the Court indicated that it would not allow that. (Exhibit N, Reporter's Transcript of Proceedings, February 19, 1993, at pp. 4:14-5:1, 6:12-20.) Code of Civil Procedure section 473 can provide relief for a mistake of law, 8 Witkin, California Procedure (3rd Ed. 1985), Attack of Judgment In Trial Court, § 151, p. 553, a motion concerning which the court in Brown stated was a factor in determining whether or not there had been a waiver of the Fifth Amendment privilege. Brown, supra, 180 Cal.App.3d at 711. Had the court in the instant case not indicated that such an effort would have been futile, the motion would have been brought on the basis that it was a reasonable mistake that a competent attorney would make to conclude that the time to bring a motion to compel started to run when the court reporter completed the transcript of Armstrong's deposition.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that Gerald Armstrong's motion for a stay should be granted.

DATED: March 22, 1993 By:________________________

FORD GREENE & PAUL MORANTZ

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: DEFENDANT ARMSTRONG'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR A STAY OF PROCEEDINGS; DECLARATION OF FORD GREENE IN SUPPORT OF MOTION FOR STAY OF PROCEEDINGS

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

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WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
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LAURIE J. BARTILSON, ESQ.
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6255 Sunset Boulevard, Suite 2000
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[x] (By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

[x] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: March 22, 1993

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FILED
NOV 16 1994
HOWARD HANSON
MARIN COUNTY CLERK
BY ______ DEP

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

157680

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California not-for-profit religious corporation,

Plaintiff,

vs.

GERALD ARMSTRONG, DOES 1 through 25, inclusive,

Defendants.

CASE NO. BC 052395

NOTICE OF FILING OFFICAL COURT TRANSCRIPT

DATE: March 23, 1993
TIME: 8:30 a.m.
DEPT: 30

DISCOVERY CUT-OFF: None
MOTION CUT-OFF: None
TRIAL DATE: May 3, 1993

TO DEFENDANTS AND THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that attached herto and filed with the Court is the official court transcript of the hearing in Department 86 on March 5, 1993, as the corrected Exhibit H to PLAINTIFF'S OPPOSITION TO ARMSTRONG'S ALTERNATIVE APPLICATION TO

STAY PROCEEDINGS; DECLARATION OF LAURIE J. BARTILSON IN SUPPORT THEREOF.

Dated: March 22, 1993

Respectfully submitted,

Andrew H. Wilson
WILSON, RYAN & CAMPILONGO

BOWLES & MOXON

By:
Laurie J. Bartilson

Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 86 HON. DIANE WAYNE, JUDGE

CHURCH OF SCIENTOLOGY,
Plaintiff,

vs. NO. BC 052 395

GERALD ARMSTRONG, et al.,
Defendants.

TRANSCRIPT OF PROCEEDINGS

March 5, 1993

APPEARANCES:

(See appearance page.)

COPY

COURT MONITOR: E. VELASCO
TRANSCRIPTION BY: FOX TRANSCRIPTIONS

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LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 5, 1993, A.M.

DEPARTMENT NO. 86 HON. DIANE WAYNE, JUDGE

THE COURT: Church of Scientology versus Armstrong.

MR. WILSON: Good morning, Your Honor.

Andrew Wilson and Laurie Bartilson appearing on behalf of the plaintiff, Church of Scientology.

MR. GREENE: Good morning, Your Honor.

Ford Greene and Paul Morantz on behalf of Gerald Armstrong, who is sitting at the end of counsel table.

MR. WILSON: Your Honor, before we begin I'd like to ask the court's permission to have Mr. Michael Hertzberg sit at counsel table with me. He's not counsel in this action. He's a New York attorney who represented my client in the previous Armstrong action on the appeal.

THE COURT: It won't be necessary because we're not going to go very far.

Gentlemen, let me ask -- I'm sorry.

MR. WILSON: Okay.

THE COURT: This case is on appeal?

MR. WILSON: Yes.

THE COURT: And it just seems to me -- you're the moving party?

MR. WILSON: That's correct.

THE COURT: It seems to me ridiculous to hold this hearing prior to a determination whether or not this is a valid order. I mean, I have some serious questions about the validity of the order. And I'm not prepared to waste my time, if it's going to be heard. And apparently it's going to be heard very soon, because the briefs have already been filed and one is left to be filed; is that correct?

MR. GREENE: Actually, Your Honor, the respondent's brief is due. Scientology's brief is due on March 22nd.

THE COURT: The respondent being the moving party here?

MR. GREENE: Being the moving party here and the plaintiff in the action. And, as we noted in a footnote in our papers and we were going to call the court's attention to that fact again this morning.

THE COURT: It just seems like an inordinate waste of our time.

MR. WILSON: May I address that point?

THE COURT: Sure. You can address, but --

MR. WILSON: And I will attempt to convince you.

THE COURT: You're not. Especially after seeing all the papers you filed.

MR. WILSON: The point here is not whether Judge Sohigian made an error.

THE COURT: No, no. I absolutely agree and I would not relitigate the validity of the order and I'm not going to relitigate that. And I think you're absolutely right. But it does have to be a valid order.

Now, I don't know how broadly or narrowly you find that but I think that it's stupid for me to waste my time, your time, deciding whether or not Mr. Armstrong is in actual contempt of an order that may be set aside.

MR. WILSON: I agree it would not be a good use of your time.

THE COURT: Well, I don't mean that my time is so valuable. I don't mean it in that sense.

MR. WILSON: It would not be a good use of judicial time, but I don't believe that any of the issues --

THE COURT: That's not my personal time that I'm talking about.

MR. WILSON: I don't believe that any of the issues that are going to be addressed on appeal will solve the problem of whether Mr. Armstrong should be held in contempt for this very simple reason:

The cases say that the only excuse that Mr. Armstrong could have for violating this court's order would be if the court did not have jurisdiction. And the cases talk about what that jurisdiction is and it's either personal jurisdiction and subject matter jurisdiction.

There's no question that Judge Sohigian had jurisdiction to issue this order. Mr. Greene tries to bootstrap his arguments, which are essentially arguments that Judge Sohigian's order was wrong, into arguments that Judge Sohigian did not have jurisdiction.

But if you look at the cases that we've cited -- and I think this is a very important point -- particularly the Walker v. City of Birmingham case, where in that case there was an injunction issued against people marching, a Civil Rights march, that involved the infamous Bull Connor, who didn't give them a permit. A court enjoined them; they violated the injunction and it went all the way up to the

Supreme Court.

And the Supreme Court said it doesn't matter this ordinance was unconstitutional; it doesn't matter whether your rights of free speech were violated. What matters is you cannot disobey the order of the court.

And in the Walker case the Supreme Court made a statement, and I'd like to read it to you briefly. And the court said, "Without question, the state court that issued the injunction had, as a court of equity, jurisdiction over the petitioners and over the subject matter of the controversy. And this is not a case where the injunction was transparently invalid or had only a frivolous pretense to validity.

We have consistently recognized the strong interest of state and local governments in regulating the use of their streets and other public places."

I submit to the court that the interest here that the court has in making sure its orders are obeyed is at least as strong as the interest of the State in Walker in regulating its streets and public ways.

What's going on here is not that Mr. Armstrong is involved in this hearing against the Church of Scientology. This is a case of Mr. Armstrong against this court. There is an order of this court and he violated it. That's what's relevant here and there's no issue before the appellate court that's going to resolve that.

THE COURT: Oh, but I think there is. And that's whether or not this is an order --

I'll tell you, when I first looked at this order, I thought the order was clear until I then read part of the transcript. Then it became unclear to me. And I think that is in front of the appellate court, whether or not this is an order capable of being followed, because Judge Sohigian's comments that at least it confused me a little bit.

So I do think that issue is there and I'm going to put this matter over until I think that will be decided without prejudice to anybody's rights and I would suggest that you return in June. I think that would give us sufficient time.

Your Honor, my concern -- and I know this is not before the court, but my concern is that Mr. Armstrong has stated in deposition -- you've probably seen that statement -- he's not going to obey this agreement no matter what a court says.

We have put forth numerous instances in which we believe he is --

THE COURT: If that's a valid order, each time he disobeys it, he faces five days in jail. I take contempt very seriously. And, I mean, I don't treat it lightly and he just does it at his peril.

MR. WILSON: Thank you.

THE COURT: All right. Let's pick a date in June. Why don't we make it June 1st.

MR. WILSON: May I be able to look at my calendar?

THE COURT: Sure.

MR. GREENE: These proceedings are being electronically recorded; right, Judge? Could we get a transcript.

THE COURT: Yes.

MR. GREENE: Thank you, Your Honor.

MS. BARTILSON: Your Honor, the case is scheduled for trial May 3rd. Judge Horowitz found no problem with going forward on the trial of this case, despite the appeal. And essentially the message that I hear Mr. Armstrong being told is you do the contempt at your peril, but by filing an appeal, no matter how frivolous, you can avoid an order of the court.

THE COURT: You know what? I don't try to interrupt you, so try not to interrupt me. All right.

MS. BARTILSON: I'm sorry. I apologize, Your Honor.

THE COURT: Is June 1st all right?

MR. GREENE: For me it's not, Your Honor. I have a conflict and maybe I can change that conflict, so I'll try.

THE COURT: June 1st. Is that all right for you?

MR. WILSON: Yes, it is, Your Honor.

THE COURT: We'll see you back here June 1st.

Mr. Armstrong, you are ordered to return on June 1st at 9:30.

MR. GREENE: Thank you, Your Honor.

(Proceedings concluded.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 86 HON. DIANE WAYNE, JUDGE

CHURCH OF SCIENTOLOGY,)
Plaintiff,)
vs.) NO. BC 052 395
GERALD ARMSTRONG, et al.,)
Defendants.)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, MARIE FOX, a duly designated transcriber, do hereby declare and certify under penalty of perjury that I have caused to be transcribed the portion of tape 1 which was duly recorded in the Superior Court of the State of California, County of Los Angeles, Department 86, on the 5th day of March, 1993, in the above-mentioned case, and that the foregoing 6 pages comprise a true and correct, accurate transcription of the aforementioned tape.

Dated this 19th day of March, 1993.

Marie Fox COPY

Transcriber

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On March 22, 1993, I served the foregoing document NOTICE OF FILING OFFICIAL COURT TRANSCRIPT on interested parties described as in this action,

[ ] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [ ] the original [X] a true copy thereof in sealed envelopes addressed as follows:

Paul Morantz, Esq. **BY MAIL**
P.O. Box 511
Pacific Palisades, CA 90272

Ford Greene, Esq. **BY FAX AND MAIL**
HUB LAW OFFICES
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960

[X] BY MAIL

[ ] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondece for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on March 22, 1993 at Los Angeles, California.

[ ] **(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on ____________, at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[ ] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

PAUL BRADFORD
Type or Print Name

Paul Bradford
Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)